

**PLANNING COMMITTEE**

**26 June 2012**

**RECOMMENDATIONS OF HEAD OF PLANNING**  
**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**

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# Stanton under Bardon Planning Applications

## Summary Report and Recommendations

### Background to this report:

This report precedes the items 1 and 2 of this agenda as there are currently two applications for residential development within Stanton under Bardon. This report should be read in conjunction with the preceding reports.

Policy 12 of the Adopted Core Strategy (2009) seeks to deliver a minimum of 30 new dwellings in Stanton under Bardon. The two applications propose a total of 65 new dwellings to be erected within the settlement. Given the number of dwellings proposed will so significantly exceed the minimum figure of 30 dwellings required by Policy 12; the cumulative impact needs to be carefully considered.

It is the opinion of your Officers that, based upon the Policies within the Adopted Core Strategy, accepting both applications would be unacceptable as it would harm the overall spatial vision of the Core Strategy for the following reasons. However this needs to be balanced against the requirements of the NPPF which states that where a LPA has not achieved a 5 year land supply the relevant housing policies cannot be considered to be up to date. The current Housing Land Supply stands at 4 years 9 months.

As a result of this conflict this report considers the implications of accepting both developments, comparing and contrasting the developments in terms of policy requirements and considering the impact if both were to proceed. The approach taken is generally inline with the most recent case law, namely that taken in Chelmsford Car and Commercial v Chelmsford Borough Council 2005.

Members will then be presented with the four decision options for consideration.

### Assessment of the applications and relevant policy:

The Hinckley and Bosworth Core Strategy was adopted in December 2009 and Policy 12 of this document allocates a minimum of 30 dwellings to Stanton under Bardon. One dwelling has been granted permission in Stanton under Bardon since the adoption of the Core Strategy so this figure is now 29.

In considering the current applications, either scheme on its own would constitute a reasonable quantum of development, however, the approval of both applications in policy terms would not be considered acceptable for the reasons given below.

The population of Stanton under Bardon is 632, made up of 268 households. If both applications were approved, this would go up to 785 and 333 respectively. This would be an increase of 24%. The rural housing methodology identified a need for 30 dwellings to maintain 2004 population levels.

It is considered that the approval of both schemes would not be in line with planning for housing objectives or the spatial vision of the Borough.

Paragraph 4.2 of the Core Strategy identifies the requirement for an additional 9,000 homes to be provided in Hinckley and Bosworth over the plan period (2006-2026). Paragraph 4.5 states that the majority of development will be located in the Hinckley Sub Regional Centre and a smaller proportion will be located in the rural areas to meet housing need. It is acknowledged that there is

insufficient land within settlement boundaries in rural areas to accommodate the additional housing need meaning these boundaries would need to be amended. Paragraph 4.29 explains that the additional housing required in rural settlements is to ensure that they remain vibrant, mixed communities.

Paragraph 4.8 highlights that during the production of the Core Strategy, the Borough Council built flexibility into the plan by including an overprovision of housing. At the time, this was to ensure that any potential increase in housing numbers as a review of the East Midlands Regional Plan could be accommodated without difficulty. This overprovision and flexibility also enabled the document to satisfy the 'flexible' strand of the 'effective' test of soundness" outlined in PPS12 (which has remained in the NPPF). Paragraph 4.12 of the Core Strategy explains that any small scale shortfalls in housing provision will be monitored through the Annual Monitoring Report throughout the plan period.

The Core Strategy takes a sequential approach to apportioning housing figures to the different areas in the Borough. Settlements which fall outside of the urban area (the urban area comprises Hinckley, Barwell, Burbage and Earl Shilton) are identified as rural settlements. Paragraph 4.30 states that:

*"In Hinckley & Bosworth, 3 main types of settlements have been identified; key rural centres, rural villages and rural hamlets."*

Paragraphs 4.43 and 4.44 provide additional clarification of what comprises a Rural Village and the council's approach to their development:

*"Rural Villages are villages with more limited services than Key Rural Centres (KRC). A primary school, community and/or leisure facilities and bus services are considered essential. A public house or hot food take-away is desirable, but not essential. These services are considered key to the functioning of a village as they provide a community 'heart', allow children to attend a local school and allow access by public transport, although the frequency of this is limited..."*

*These Rural Villages will be the focus of limited development with the aim of ensuring existing services, particularly primary schools, are supported. Because these villages have limited services, they are less sustainable than the Key Rural Centres as car travel will be required in most cases to access employment and services. However, some level of development is considered necessary to ensure existing services and community cohesion is maintained."*

This approach was considered sound by the inspector of the Core Strategy in his report dated 27<sup>th</sup> November 2009. The most relevant paragraphs to rural housing provision in the Inspectors report are 3.59 – 3.62. These are highlighted below:

*"The rural areas housing allocations are based on figures derived from the Rural Housing Numbers Methodology Statement 2008 (CD11/06). The allocations broadly reflect the amount of housing required to maintain population levels in the settlements at 2004 levels given likely demographic changes, adjusted to take account of transport sustainability, the range of services available, and environmental constraints. They provide additional housing in local communities and support the maintenance and enhancement of existing services in the KRCs and other rural settlements."*

*The overall housing allocation in the rural areas is 885 dwellings, representing just under 10% of all housing allocations for the borough until 2026. The appropriate level of housing in rural areas is very much dependent on particular local circumstances, and national guidance is therefore silent on numbers. Nevertheless, PPS7 does provide guidance in identifying that such development should focus on service centres, but that some housing is required in villages to meet identified local need. The Council's approach follows the hierarchy established by PPS7, and concentrates*

*the majority of rural housing growth (745 dwellings) in the identified KRCs, with only 140 units allocated to other rural settlements. The overall population projections in CD11/06 broadly support those figures, and I see no in principle objection to them.*

*The Methodology paper goes on to adjust the housing requirements for each KRC by analysis of their sustainability and provision of services, together with an assessment of the existing housing and population mix and land availability data from the SHLAA. Whilst the rationale for the refinement is clear, the numerical basis for the changes is less so. Nevertheless, although a number of representations were made which proposed changes to the allocation in individual settlements, those were mainly promoting individual sites, and no more compelling rationale was advanced as an alternative method of allocating rural housing.*

*The need for continued development in rural communities was highlighted in the Taylor Report Living Working Countryside (CD5/02), and I concur with the view that some housing development is necessary in rural areas to 'maintain sustainable and mixed rural communities'. I therefore accept the figures put forward by the Council represent a reasonable allocation of housing in line with both national and regional policy. The identification of specific sites is not a function of this Examination and will be progressed through the SAGDCDPD."*

The inspector's report provides recent and strong validation of the Council's approach to quantifying and distributing housing across the borough and rural areas in particular. Therefore, considerable weight should be accorded not just to the numbers set out in Policy 12 but also the method behind the calculation of those numbers.

This approach was also fully supported through an appeal decision at Stoke Golding. The inspector agreed that the approach of maintaining rural population levels is logical and that significantly increasing the number of dwellings to be provided in rural areas would undermine the Core Strategy both in terms of the distribution of housing in rural areas and the strategy of focussing development in the urban area as a whole.

It is therefore concluded that as the approval of both applications would lead to a substantial increase in the number of properties in the village and would be contrary to the spatial vision of the Core Strategy, this should be avoided.

Turning to the NPPF and these applications paragraph 49 states that "*Housing applications should be considered in the context of the presumption of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year land supply of deliverable housing sites*"

In a recent appeal decision the Inspector commented in relation to paragraph 49 and this authorities five-year land supply as follows:

*"The Framework is a material consideration. Having regard to all of the above matters, in this particular case, I attach moderate weight to both the [Local Plan] and [Core Strategy] policies"*

Officers therefore conclude that on policy terms the applications individually provide sustainable development, however taken together represent an unsustainable development of Stanton Under Bardon. These policies, in a strict reading of paragraph 49 of the NPPF need to be considered to be out-of-date and cannot be afforded full weight. It is this balancing that has led to the reports being placed before committee for determination with no recommendation.

Accordingly within the context of there only being capacity for one residential development of this scale within Stanton under Bardon, it remains to be considered which application better meets the policy requirements. The table below acts as a summary of both applications under consideration and identifies both the merits and failings of each proposal. It is the opinion of your Officer's that

no overriding facts weigh in favour of either application and it is proposed that as Members of the Planning Committee it is at your discretion in this particular instance to decide on which application is most appropriate for this village having regard to policy and all other material planning considerations.

Issue/Policy Requirement	Application: 11/00988/OUT (Persimmon)	Application: 11/00582/FUL (David Wilson)
Within the Settlement Boundary or in the Countryside?	Outside the settlement boundary. In the countryside	Part inside, part outside.
Number of dwellings (Requirement: 29)	38	28 (net 27 dwellings)
Affordable Housing (Requirement 40%)	18.5% (7units)	30% (8 units)
Design and Layout	Subject to Reserved Matters Application	Acceptable
Highway Concerns	Sustainability Concerns	Sustainability Concerns
Ecology	Acceptable	Acceptable subject to a condition
Archaeology	Acceptable subject to conditions	Acceptable
Arboriculture	Subject to Reserved Matters Application	Acceptable
Drainage	Acceptable subject to conditions	Acceptable subject to conditions
Pollution	Acceptable	Acceptable
Neighbours	17 objections 1 support 1 neutral	28 objections 1 support
Play and Open Space Contributions/Provision	£40,988.20 Full requirement	£29,130.30 Full requirement
National Forest Planting	£6,600.00 Full requirement	£3,360.00 Full requirement
Other benefits/ material considerations	Provision of Community Hall  Reduced allotment space but better quality	

Whilst is the opinion of your Officers that there is only capacity for one residential development within Stanton under Bardon and that either is acceptable, your Officers are aware that you may wish to support and approve both developments that are currently under consideration.

Accordingly, you are provided with four decision options for consideration, as follows:

1. Approve both applications
2. Refuse both applications
3. Refuse 11/00988/OUT and approve 12/00582/FUL
4. Refuse 12/00582/FUL and approve 11/00988/OUT

**Item:** 01  
**Reference:** 11/00582/FUL  
**Applicant:** Mr John Deakin  
**Location:** 261 Main Street Stanton Under Bardon Markfield  
**Proposal:** ERECTION OF 28 DWELLINGS AND GARAGING INCLUDING DEMOLITION OF 261 MAIN STREET  
**Target Date:** 10 November 2011

### **Introduction:-**

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

This application has been held in abeyance by the Local Planning Authority from Autumn 2011 to allow for ecological surveys to be undertaken in the Spring of 2012.

### Application Proposal

This application seeks full planning permission for the erection of 28 dwellings including car parking, garaging and landscaping.

The application proposes 28 dwellings consisting of 4 two bedroomed properties, 8 three bedroomed properties and 16 four bedroomed properties. The application includes 8 affordable units (a 30% contribution) consisting of six social rented and two shared ownership properties, equating to 4 two bedroomed properties and 4 three bedroomed properties. There is a mix of detached, semi-detached and terraced dwellings of 2 and 2.5 storey proportions proposed.

An existing vehicular access currently serving No. 261 Main Street, (which is set to be demolished) is proposed to be widened with a new pedestrian access proposed adjacent to the access road. There is one main public access road through the site. All privately owned dwellings are to be served by a garage, with the affordable housing units each having two car parking spaces. The demolition of the existing property results in a net gain of 27 dwellings.

During the course of the application a number of amendments, revisions and additional information have been received:-

### Layout

New house types and relocation of plots  
Re-location of affordable housing units in to two separate areas.

Re-consultation was undertaken with neighbouring properties, the parish council, ward members and the Council's affordable housing officer.

Plans showing soft landscaping proposal, boundary treatments and fence, gate and wall details.

No-formal re-consultation was undertaken given the minor nature of the information received.

### Highways

Further highway information addressing the impact of additional traffic on the junction of Main Street/Stanton Lane junction, adequate visibility splays at the site access and sustainability of Stanton Under Bardon; An additional plan has also been received entitled proposed access arrangements, drawing no. NTT/665/002 Revision P1 depicts how 2.4 x 33 metre visibility splays can be achieved.

Re-consultation was undertaken with the Director of Environment and Transport (Highways)

### Ecology

In relation to a request by the Directorate of Chief Executive (Ecology) to assess adjacent ponds for Great Crested Newts that applicant has approached the landowners of both ponds 1 and 2 and has provided written confirmation from one owner refusing access, and no response was received from the other. Both ponds are on private land with no public access and the Directorate of Chief Executive (Ecology) was kept involved with this process.

Re-consultation was undertaken with the Directorate of Chief Executive (Ecology).

### Archaeology

During the course of the application archaeological trial trenching was undertaken and an evaluation report was submitted.

Re-consultation was undertaken with the Directorate of Chief Executive (Ecology).

### Other Issues

During the course of the application, the applicant has provided the following information:-

- There is a shop/post office in the middle of the village, 2 hourly bus service Monday to Friday, numerous bus stops, primary school, public house, scout hut/village hall, churches, recreational ground and allotments. The applicant similarly provided further information at a later stage to confirm that Main Street has a number of bus stops along its whole length with a reasonable bus services, post office/shop, Primary School, Village Hall, Religious Institutions, Playing Fields and a Public House.
- Locating development in Stanton under Bardon was statutorily approved through the adoption of the Core Strategy and that LCC had been a key consultee in relation to the Core Strategy and Sustainability Appraisal. In respect of the issue of rural transport and sustainability this was given particularly attention at the examination in public and the commitment that is given by the Local Transport Plan in support of these initiatives.

In response to the latest consultation response from the Director of Environment and Transport (Highways) stating that only one of the two residential developments in Stanton should be approved the applicant has provided the following information:-

- The Core Strategy has already identified Stanton Under Bardon as a sustainable location for development and this has been supported by the evidence base to that Strategy and no evidence has been provided by LCC to the contrary. The Core Strategy specifically seeks to direct more development to rural areas to make them more sustainable and



enable more housing choice to be accommodated in locations previously caught in the 'sustainability trap'.

- Basic services are clearly in evidence and additional services are available in higher order settlements which are connected to the village by public transport:- there is a two hourly Monday to Saturday bus service between Coalville and Leicester which a number of stop offs.
- The settlement is well related to a number of major employment areas in the locality such as Bardon Business Park, Scotlands Industrial Estate and major employment offer at Coalville.
- The reason for refusal continues to ignore the Borough Council's Core Strategy and its aspirations for its rural communities and relies on a Local Transport Plan which has no development plan status – the Local Transport Plan is not independently examined whereas the Core Strategy has been.
- Leicestershire County Highway Authority quote PPS1, PPS7 and PPG13 which are no longer of relevance given the publication of the National Planning Policy Framework.
- There is a persistent under-capacity within local Primary Schools; even if both applications were permitted there would still be an under capacity at the Primary School based upon 25 pupils per 100 houses
- The NPPF seeks to 'promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.'
- Government aspirations through the NPPF are to ensure policies and decisions should plan positively for the provision of community facilities and other local services to enhance the sustainability of communities and residential environments.
- Government aspirations through the NPPF are to ensure Local Planning Authorities:-

Guard against un-necessary loss of valued facilities and services, particularly where this would reduce the communities' ability to meet its day-to-day needs;

Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefits of the communities daily needs;

Ensure an integrated approach considering the location of housing, economic uses and community facilities and services

- The Borough Council has adopted an integrated approach through the adoption of core strategy policies which seek to underpin and maintain services as well as providing new housing opportunities where none have existed for many years. The NPPF requires a more pragmatic approach to development, whereas the Local Transport Plan seeks to turn the clock back again. The current approach by LCC Highways must be seen in light of what the NPPF now states in relation to promoting sustainable transport which states that :

'The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the government recognises that different policies and measures will be required in different communities and

opportunities to maximise sustainable transport solutions will vary from urban to rural areas.' (Para 29, NPPF).

- LCC Highways provides no recognition of the Council's Core Strategy and its policy stance on Stanton and has a lack of up to date knowledge in respect of community and public transport facilities within the village.

### The Site and Surrounding Area

The site is roughly rectangular in shape measuring approximately 0.84 hectares. The site is currently occupied by a two storey detached dwelling fronting Main Street with stables to the rear of the neighbouring No. 265 Main Street, with the remainder of the site being used as a pony paddock. The site is bound to the north by an existing landscaping buffer separating the site with Richmond Park Primary School and playing fields with residential properties bounding the site to the west and south. Part of the site to the west, where the existing dwelling is located falls within the settlement boundary of Stanton under Bardon, whilst the pony paddock to the east is located outside of the settlement boundary, as defined by the adopted Hinckley and Bosworth Local Plan.

### Technical Documents submitted with application

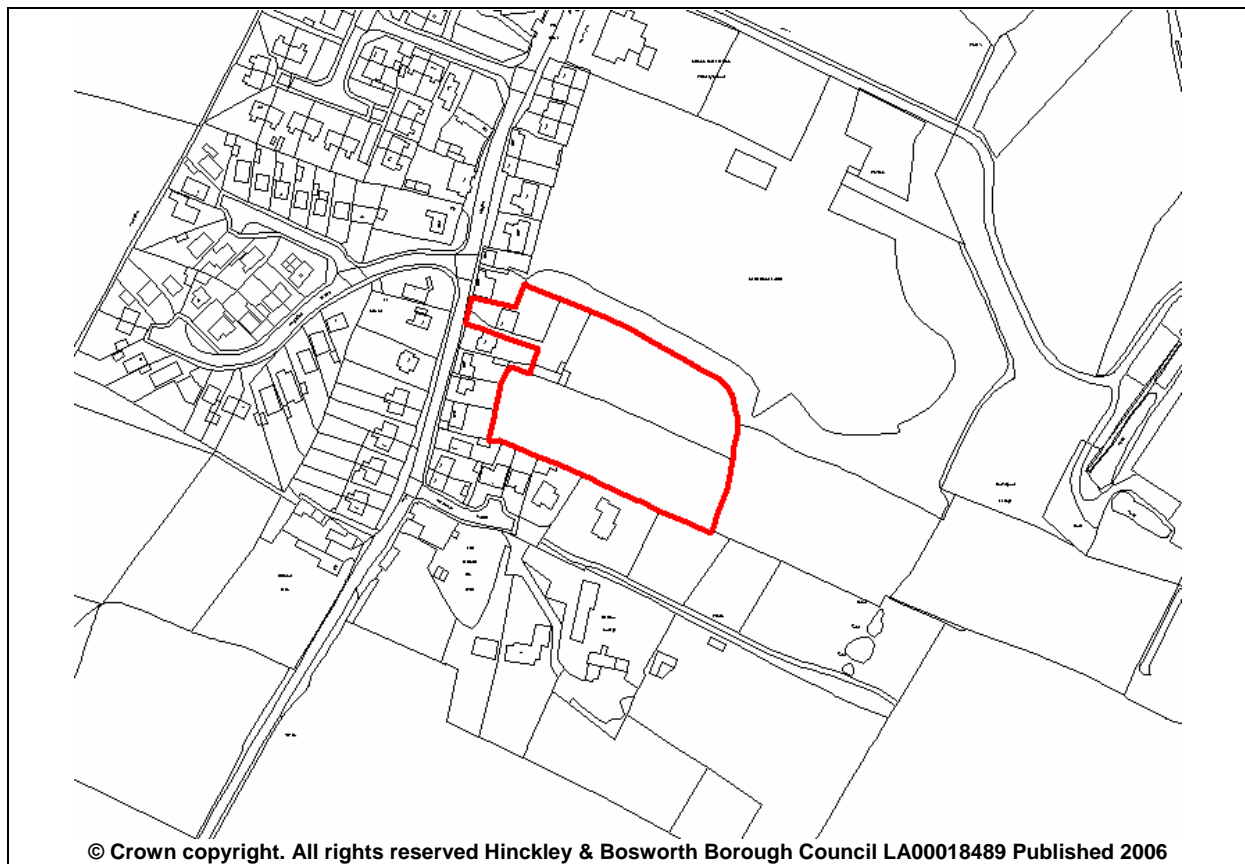
The application has been accompanied by a draft S106 agreement.

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

Arboricultural Survey  
Design and Access Statement  
Ecology Appraisal  
Heritage Assessment  
Highways Report  
Viability Assessment.

### **Relevant Planning History:-**

93/00398/4	One dwelling	Approved	23.06.93
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### **Consultations:-**

No objections have been received from:-

Environment Agency  
Central Networks  
The Coal Authority  
The Leicestershire Constabulary Crime Reduction Officer  
Director of Environment and Transport (Rights of Way)  
The Borough Council's Arboricultural Consultant (Tree Officer)  
Head of Community Services (Pollution)  
Director of Chief Executive (Archaeology).

No objections subject to conditions have been received from:-

Severn Trent Water Limited  
Head of Community Services (Land Drainage)  
Directorate of Chief Executive, LCC (Ecology)  
Head of Business Development and Street Scene Services (Waste Minimisation).

The Director of Environment and Transportation (Highways) : Whilst this application has been held in abeyance to address the ecology and archaeology issues, another planning application has been submitted for residential development within Stanton Under Bardon (ref: 11/00988/OUT). The Director of Environment and Transport (Highways) has revised their observations and has confirmed that only one of the applications would be supported from a sustainability point of view, and therefore would recommend refusal on the other application, however they have failed to identify which of the two applications the reason for refusal would relate to.

Councillor Matthew Lay objects for the following reasons:-

- a) the site is within the open countryside and within Charnwood Forest and as such policy should protect these areas from residential development
- b) local residents are strongly against this application as it is in the open countryside and there are no gains for the village, namely a new village hall
- c) an alternative site can be found within the village which was put forward for inclusion within the draft site allocations document and this has not been updated to include the alternative site
- d) the document is in draft form only and yet the applicant clearly gives it significant weight
- e) the additional traffic from the development on the narrow road will lead to problems
- f) the site is too dense and is at odds with the rest of the village and out of keeping.

County Councillor David Sprason objects as it is outside the settlement boundary and the Parish Council have identified an alternative site to meet the required housing needs as identified in the Core Strategy. Councillor Sprason also states that he objected to this through the Draft Site Allocations and Generic Development Control Policies procedure.

Midland Quarry Products object to the proposal due to their concern over the impact the proposed development may have on the operation of the quarry. They consider that the developer should undertake a full assessment of what the potential impacts could be.

Site notice and Press notice were displayed and neighbours notified.

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

- a) the site is in a sensitive open countryside location and within Charnwood Forest
- b) the Council's policies are to protect the open countryside for its own sake
- c) the countryside provides a buffer between two large stone quarries
- d) the development would alter the development line of the village
- e) the preferred site allocations document is in draft format only and has not been approved by the Council
- f) a better alternative site, endorsed by the community was submitted by the Parish Council but was not properly considered at the time and this site is in the centre of the village in a more suitable location
- g) a new village hall needs to be provided and there is no priority for this; should be secured by condition
- h) no provision for the loss of the open space on site
- i) the road is narrow and a 30 mph zone
- j) due to on site parking effectively makes this a single access road
- k) the additional traffic movements from the site will generate considerable additional burden for this narrow road
- l) the access onto the site is dangerous as it has poor visibility
- m) the traffic impact assessment is only a triumph of statistics and states that the necessary visibility splays are not achieved but then continues to excuse this later on; the blind hill top to traffic and parked vehicles has been ignored; movements figures likely to be much larger
- n) the 40% affordable housing figure should not be negotiable
- o) the scheme will result in over-development and a poor quality scheme
- p) close proximity to a Conservation Area and strong consideration should be had to the character and design of the dwellings; currently out of character
- q) the Primary School and local doctors surgery are at full capacity
- r) destruction of natural habitat, including bushy ground cover and large mature trees and insufficient consideration of priority species

- s) loss of trees will reduce the buffer which reduced noise and dust
- t) request that no trees are planted on the proposed pathway running along the side of No. 265 Main Street
- u) the hedge and trees to the south belong to the owner of the land to the south, reducing the developable area and dismiss the proposals for boundary treatment along this southern border
- v) loss of natural light, overlooking; loss of privacy; loss of privacy in garden during construction
- w) dwellings are positioned directly opposite existing properties on Meadow Lane
- x) affordable housing is located in one location resulting in a 'ghetto' and should be integrated into the development as a whole
- y) extreme levels of dust and dirt during construction
- z) ground level differences
- aa) issue of flooding (as a result of ground level differences)
- bb) loss of plants in the garden;
- cc) previous contact with the Council revealed no development on this site for at least 30 years;
- dd) it is current government policy to better support local community in the determination of planning matters; the application meets none of the aspirations of the community and will be to the detriment of the village without any positive return to this community;

One letter of support has been received which states:-

- a) the site at present does little to enhance the village
- b) goats, horses and dogs will no longer stray onto the road
- c) at present there is little habitat for birds etc
- d) traffic speeds should be slowed through a traffic management system.

Following re-consultation four letters of representation has been received raising the following concerns:-

- a) none of the highway issues previously raised have been addressed; visibility into and out of the new access road will be poor and the additional traffic will increase danger on the main road which is already reduced to a single track road with poor visibility
- b) the traffic impact assessment is only a triumph of statistics and states that the necessary visibility splays are not achieved but then continues to excuse this later on; the blind hill top to traffic and parked vehicles has been ignored; movements figures likely to be much larger
- c) additional congestion
- d) original highway reasons for refusal remain valid
- e) sensitive, un-sustainable and justifying on the grounds that the site is in the Borough Council's preferred site allocation document which is only in draft form
- f) alternative sites not considered and no new village hall provided, no provision for the loss of open space
- g) insufficient affordable housing
- h) overdevelopment and poor quality scheme
- i) overlooking, obstruction of natural light, invasion of privacy
- j) use of conservatory as bedroom and insufficient distance between proposed dwelling
- k) plot 21 overlooks and is overlooked by the 3 storey property at Meadow Lane – issues of privacy
- l) searches by solicitors indicated that there were no plans of potential planning for the area
- m) destruction of the natural habitat for wildlife
- n) insufficient facilities within walking distance and poor public transport
- o) contrary to the communities aspirations

- p) the hedge and trees to the south belong to the owner of the land to the south, reducing the developable area and dismiss the proposals for boundary treatment along the southern border
- q) drainage issues.

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

- a) Director of Environment and Transport (Civic Amenity) requests £1,741.00 for the additional civic amenity waste generated as a result of the development at the Coalville site
- b) Director of Adults and Communities (Libraries) requests £1,720.00 in respect of additional users of the existing library facilities at Markfield Library on Oakfield Avenue
- c) Director of Children and young Peoples Services (Education) does not request any financial contributions
- d) Directorate of Chief Executive (Ecology) does not request any financial contributions
- e) Director of Environment and Transport (Highways) does not request any financial contributions.

The National Forest requests £3,360.00 for off-site planting within the vicinity of the site.

The Primary Care Trust does not request any financial contributions

Stanton under Bardon Parish Council recommend refusal but request the following for Play and Open Space should the application be approved:-

- a) £8,715.60 for the provision of formal new allotments
- b) £19,585.80 for the provision of informal equipped play facilities and £9,544.50 for the maintenance of equipped play facilities
- c) £2,494.80 for the provision of informal amenity space and £4,293.00 for the maintenance of amenity space.

### **Development Plan Policies:-**

#### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012  
 The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122  
 Government Circular 06/2005: Biodiversity and Geological Conservation

#### Regional Policy: East Midlands Regional Plan 2009

Policy 2: Promoting Better Design

#### Local Plan 2006-2026: Core Strategy 2009

Policy 12: Rural Villages  
 Policy 15: Affordable Housing  
 Policy 16: Housing Density, Mix and Design  
 Policy 19: Green Space and Play Provision  
 Policy 21: National Forest  
 Policy 24: Sustainable Design and Technology

### Hinckley and Bosworth Local Plan 2001

The site lies partly within and partly outside of the settlement boundary of Stanton Under Bardon, as defined in the adopted Hinckley and Bosworth Local Plan.

Policy NE5: Outside Development Limits

Policy RES5: Residential Proposals on Unallocated Sites

Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities

Policy BE1: Design and Siting of Development

Policy BE13: Initial Assessment of Sites of Archaeological Interest and Potential

Policy BE14: Archaeological Field Evaluation of Sites

Policy REC2: New Residential Development – Outdoor Open Space Provision for Formal Recreation

Policy REC3: New Residential Development - Outdoor Play Space for Children

Policy NE14: Protection of Surface Waters and Groundwater Quality

Policy T3: New Development and Public Transport

Policy T5: Highway Design and Vehicle Parking Standards

Policy T9: Facilities for Cyclists and Pedestrians

Policy T11: Traffic Impact Assessment

### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development

Supplementary Planning Document: Play and Open Space

Supplementary Planning Document: Sustainable Design

Supplementary Planning Document: Affordable Housing

Supplementary Planning Document: Rural Needs

### Other Material Policy Guidance

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

The SHLAA Review 2010 was published in April 2011 and the application site (AS590) was assessed through this process. The site was identified as suitable, available and achievable and, as a result, developable.

#### Landscape Character Assessment July 2006

Stanton Under Bardon is located in the Charnwood Fringe Character Area (Area A) and specifically characterises the built environment as twentieth century development with estate pattern with a mixture of two and single storey housing.

#### **Appraisal:-**

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

#### Principle of Development

Part of the site to the front falls within the settlement boundary of Stanton Under Bardon, where there is a presumption in favour of development, providing all other matters can be adequately addressed. Part of the application site, however lies outside of the current

settlement boundary of Stanton Under Bardon, 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 development does not meet any of these criteria. However, since the publication of the NPPF criteria a to c of Policy NE5 are considered to have conflict with the intentions of the NPPF and therefore have limited weight in the determination of the application.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

**Economic** - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. The development under consideration forms part of a residential curtilage and part open countryside. It is considered that the local economy would benefit through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. The proposed application confirms that there is an economic demand to develop the land, and through the development phases, additional money will be brought into the local economy. Accordingly the site is considered to be consistent with the 'economic role'.

**Social** – in this respect, developments should support 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 environment. The scheme proposes two, three and four bedroomed properties, including the provision of affordable housing, appealing to a wider spectrum within the local market, thus increasing local market choice and appealing to groups who may have otherwise been excluded from the locality. The design of the dwellings utilises materials and architectural features common to the locality. Overall the scheme would contribute towards a rural housing shortfall and the detailed design and incorporation of local architectural features and materials will enhance the quality, vibrancy and health of the local community.

**Environmental** - to fulfil this role developments should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The dwellings proposed will be built to the latest environmental standards and through the landscaping of the site, biodiversity will be improved.

In summary, based on the above discussion, the development proposed is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

### Five Year Housing Land Supply

Since the publication of the NPPF housing applications should be considered in the context of the presumption in favour of sustainable development. It states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of housing. The NPPF retains the need to provide five



years worth of housing against their housing requirements; it goes further than PPS3 and states that there should be an additional 5% buffer and where there is a persistent under delivery of housing the buffer should be increased to 20%.

As of October 2011 the Local Authority is unable to secure a five year housing land supply of deliverable and developable sites. The cumulative shortfall of dwellings has now been identified and equates to a four years and nine months of supply.

As highlighted above the NPPF requires a five year supply of housing, plus either a 5% or 20% buffer. The Council's current position is of a supply of four years and nine months and therefore housing land supply policies cannot be considered to be up to date where an authority does not have a five year supply.

In summary, whilst policies NE5 and RES5 are not supportive of residential development outside of the settlement boundary, given their policy conflict with the intentions of the NPPF limited weight can be afforded to their consideration within the determination of this application. Recent appeal decision Ref: APP/K2420/A/12/2168670 for the erection of a dwelling within the open countryside, confirmed the situation in relation to the weight to be attached to the local plan policies, also assigning them limited consistency with the NPPF. Given the presumption in favour of sustainable development and the Council's lack of a five year housing land supply, this is considered a significant material consideration in the determination of this application. It is considered that the approval of this application would bring forward 28 units which would 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, as discussed later in this report.

#### Impact upon the Countryside

As discussed earlier in this report the application site in policy terms lies outside of the defined settlement boundary for Stanton Under Bardon and is within the open countryside. Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes.

As previously discussed, whilst limited weight can be given to saved Policy NE5 following the release of the NPPF due to its presumption in favour of sustainable development, the design criteria i-iv remain generally relevant to development within the countryside and are consistent with the NPPF. It states that development will have to meet the following criteria:-

- a) it does not have an adverse effect on the appearance or character of the landscape
- b) it is in keeping with the scale and character of existing buildings and the general surroundings
- c) where necessary it is effectively screened by landscaping or other methods
- d) the proposed development will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

It is acknowledged that the form of Stanton Under Bardon is largely thin and linear in this location. However, following the approval of residential dwellings to the south of the site along Meadow Lane, the application site as a whole is now largely bound by residential development to the west and south and by the primary school to the north of the site. It is therefore considered that the site lies adjacent to the current form of development in Stanton Under Bardon and therefore the site is not considered that the site which falls within the countryside is considered a 'typical' open rural countryside location.

In terms of wider visual impacts, there is the presence of mature planting immediately to the north and east of the site (outside of the application site) which is considered to provide both a visual and physical separation from the countryside beyond ensuring that the development does not encroach upon the countryside and given the level of cover it is likely that there would only be partial glimpses of the development from outside of the site.

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, it should be considered that this site in context within the surrounding development does not represent a 'typical' open rural countryside location, nor is it considered to significantly encroach upon the countryside, due to existing landscaping buffers.

### Overall Appearance

#### Density

Policy 16 of the adopted Core Strategy seeks a density of at least 30 dph within and adjoining 'Rural Villages' such as Stanton Under Bardon. It also states that in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable. The application proposes 28 dwellings on a 0.84 hectare site equating to a net density of approximately 33 dph. It is therefore considered that the density of the scheme is in accordance with Policy 16 of the adopted Core Strategy.

#### Layout

The layout proposes one main access road off Main Street running from west to east with four routes feeding from this. The proposed dwellings have all been designed to face the road frontage, with all amenity spaces provided to the rear of the plots.

Careful consideration has been taken in the positioning and design of dwellings to the east of the site plots 1, 2, 3, 5, 28 to ensure that an aesthetical streetscene is created when entering the site. Particular attention has been given to corner plots (plots 9, 17, 23, 26) to ensure there are no dull or blank frontages and plots 6,7, 26, 27, 28 have been specifically designed to address the curves in the road layout.

Following the submission of amended plans car orientated spaces, adjacent to plots 22 and 23 have been carefully positioned to ensure that they are well screened from the main access road and the car parking serving plots 12-15 has been broken up with the addition of planting.

The rear amenity spaces are largely in conformity with the standards set down in the Council's SPG on New Residential Development, with some plots i.e. 11-15 proposing smaller sized gardens. It is considered that there are no issues identified with these sized rear gardens in respect of impact upon residential amenity and that overall on balance, some smaller sized gardens provide an element of choice for future occupiers.

#### 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. Following a recent decision at September planning committee, the applicant has been made aware of issues raised in respect of the siting of affordable housing and has subsequently provided amended plans to

show the relocation of 4 units to the west of the site. Additional consultation has also been undertaken with the Council's Affordable Housing Officer, who is in full agreement with the current siting of the affordable housing units proposed. In response to an objection raised about the siting of the affordable units into one area, this has therefore now been amended. Accordingly it is considered that the current siting of the affordable housing units is acceptable.

### Scale

The surrounding area is characterised by detached and semi detached dwellings of two storey proportions. This scheme proposes detached, semi detached and terraced dwellings all of two storey proportions, (with one dwelling of a 2.5 storey proportion – plot 4) which occupy fairly similar footprints to that of neighbouring dwellings, ensuring that the scheme is within the character of the surrounding area.

### Design

In relation to the visual appearance of the built environment, a varied range of house types (13 in total) are proposed within the scheme. Each house type is simplistic in design but of differing footprints and scales containing differing design features such as chimney stacks, decorative brick headers, brick string courses, bay windows and canopies over the front door. It is considered that the design approach has been carefully considered and the variation adds to the aesthetics of the overall scheme.

The scale of garages are subservient to dwellings and the design largely reflects that of the dwelling to which they serve.

Details of materials have not yet been received and the Local Planning Authority would request that samples are first submitted to them for subsequent approval, which can be secured through the imposition of a planning condition.

### Hard and Soft Landscaping

In respect of hard landscaping the scheme proposes: - 1.8 metre high brick screen wall, 1.8 metre close boarded fence and 1.8 metre personnel gate. The appearance of the brick and wooden fencing is considered appropriate in its appearance and will not be harmful to the overall design concept of the scheme and the character of the immediate area.

In terms of soft landscaping the boundaries to the north and east of the site are well vegetated and the layout plan shows the retention of existing trees and hedges and additional grass, tree and hedgerow planting. The existing hedgerows are to be retained and additional planting is welcomed, with the level of planting considered appropriate to contribute to the visual amenity of the development, within this countryside setting.

In response to a neighbouring letter of objection it is not considered that the scheme is overdeveloped based upon the density and layout.

A further neighbour letter has also raised concern that the development will result in a loss of open space. The development is proposed within the open countryside and not on formal recreational land to which the general public have access. Accordingly, impacts from the proposal on the open countryside have been appraised above.

In summary, the range of terraced, semi detached and detached properties of 2, 3 and 4 bed roomed configuration combined with the 2 storey proportions adds variation and interest and provides strong attractive street scenes, softened by the variation in architectural

detailing, materials, surfacing, boundary treatments and trees and landscaping. The current siting of the affordable housing is not considered to give rise to any concern and has the backing of the Council's Affordable Housing Officer. Accordingly the scheme is considered to be in accordance with Saved Policies NE5 (criteria i-iv) and BE1 (criteria a) of the Local Plan.

### Impact upon Residential Amenity

Saved Policies BE1 (criteria i) is considered to have no or limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

The site is bordered by residential dwellings to the south and west on Meadow Lane and Main Street, respectively. Objections have been raised in respect of the loss of light, privacy, overlooking and positioning of dwellings directly facing Meadow Lane.

The neighbouring residential dwellings most immediately impacted upon as a result of the proposal would be No. 3 Meadow Lane located to the south and No.'s 259 and 269 Main Street located to the east, given the proximity to proposed dwellings on site.

To the south of the site, there is a distance of approximately 11 metres between the rear wall of No.3 Meadow Lane and the side wall of proposed plot 22. In terms of overbearing impacts, the relationship between the positioning of the two dwellings means that only part of the garden area from No. 3 would be impacted as a result of the proposal. By virtue of plot 22's positioning to the north of No.3 and given the orientation of the sun from east to west throughout the day, it is not considered that the proposed plot 22 would lead to any significant loss of light or overshadowing upon No. 3. In terms of overlooking, there is one first floor window proposed in the side elevation, serving a landing and it is therefore considered that there would not be any significant overlooking from this window.

There is a distance of approximately 12 metres between proposed plot 1 and No. 259 Main Street, sited in a similar location to that of the existing dwelling set to be demolished. It is not considered that there would be any significant impacts upon the occupiers of No. 259 due to its positioning and there are no windows proposed in the side elevation of plot 1.

There is a distance of approximately 14.5 metres between proposed plot 24 and No. 269 Main Street. There is the presence of a 1 metre stone wall, complete with timber and brick built outbuildings, sited close to the common boundary, combined with tree cover, which is set to screen some of the proposed dwelling. There are two first floor windows proposed in the side elevation of plot 24 serving an en-suite and bathroom which are to be fitted with obscure glass, secured through the imposition of a planning condition.

The Council's SPD on New Residential Development states that where a window of a habitable room faces the blank wall of an adjacent dwelling there should be a minimum distance of 14 metres, and whilst the proposed dwelling contains two windows, both are set to be secured by obscure glass (and it is therefore considered that the 14 metres can be used as a requirement for comparative separation distances).

In response to a neighbouring letter of objection there is a distance of approximately 19 metres between the rear of plot 21 and No. 5 Meadow Lane, complete with the presence of a tree which will provide some screening. As stated above, by virtue of the plots positioning to the north of the neighbouring dwelling and the orientation of the sun, there would not be any significant loss of light or overshadowing. There are land level differences between the application site and Meadow Lane and the heights and styles of the proposed boundary treatments to occupy the site boundary are currently under negotiation.

In response to a neighbouring letter of objection there is a distance of approximately 23.5 metres between the front of plot 25 and the rear of No. 1 Meadow Lane (taking into consideration the projection of the rear conservatory to No. 1 Meadow Lane). This distance is considered to be sufficient to ensure that there are not any overbearing impacts. By virtue of plot 25's positioning to the north of No. 1 Meadow Lane, and given the orientation of the sun from east to west throughout the day, it is not considered that the proposed plot 25 would lead to any significant loss of light or overshadowing upon the neighbouring dwelling.

Whilst there are other residential dwellings within the vicinity, it is considered that there are sufficient distances between the existing and proposed residential units resulting in no significant impact upon residential amenity. For the avoidance of doubt, the plot adjacent to No. 5 Meadow Lane (effectively No. 7 Meadow Lane) is a concrete slab only and does not afford the benefit of planning permission.

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

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

Saved Policies T5, T9 and T11 are all considered to have no or limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

The application was accompanied by a 'Highways Report' which detailed the existing width and speed of Main Street and a speed survey undertaken at the proposed site access to determine the required visibility. The visibility requirements can be achieved on the basis of applying recent guidance which states that measuring visibility to oncoming traffic is more accurate.

The proposed access arrangements include the widening of the existing access road, combined with 1 no. footpath. All new dwellings are to be provided with at least one allocated car parking space; with the majority of private dwellings with single detached garages and all affordable housing units with 2 no. allocated spaces each. Parking has been divided within the scheme so that the majority of garages are set back within the plots, with a parking course to the west of the site and parking to the front and side of plots 12-15. The site is in close proximity to a public right of way that connects directly to the village recreation ground at the primary school.

During the time this application has been held in abeyance another planning application has been submitted for outline residential development within Stanton Under Bardon (ref: 11/00988/OUT). The Director of Environment and Transport (Highways) has refreshed their observations and have confirmed that only one of the applications would be supported from a sustainability point of view, and therefore would recommend refusal on one of the applications.

In response to highway related letters of objection, the scheme has been considered by the Director of Environment and Transport (Highways) who raises no objections in terms of highway safety.

In the opinion of the Local Planning Authority the Director of Environment and Transport (Highways) has not provided a sufficient and clear statement to justify which application they seek to be refused. In the absence of a full reasoning behind their objection the Council are unable to assess whether this objection may or may not be sufficient to outweigh the merits

of the application and the no in principle policy objection endorsed by the overarching intentions of the NPPF and the Core Strategy. Further the reason proposed it is not sufficiently justified or detailed as to demonstrate a sever impact capable of sustaining refusal.

Should this application be approved, the Director of Environment and Transport (Highways) has recommended a number of conditions.

Suggested condition 1: Drainage shall be provided within the site such that surface water does not drain into the Public Highways. In the opinion of the Local Planning Authority there are no significant variations in levels and therefore this condition is not considered necessary.

Suggested Condition 2: The existing vehicular access shall be closed permanently within one week of the new access being brought into use. In the opinion of the Local Planning Authority the existing access is being amended and therefore this will not be necessary or possible.

Suggested Condition 5: Two car parking spaces for a dwelling of up to three bedrooms, three spaces for a dwelling with four or more bedrooms shall be provided. In the opinion of the Local Planning Authority the scheme proposes at least 2 car parking spaces per dwelling and all open market dwellings have one garage space, should the Director of Environment and Transport (Highways) be concerned about the level of car parking spaces this should have been negotiated during the course of the application. Instead a condition (suggested condition 10) is proposed which ensures that car parking spaces are provided in accordance with the approved layout plan.

Suggested Condition 6: Details of the routing of construction traffic shall be provided. In the opinion of the Local Planning Authority it would be difficult to differentiate between the general traffic and the specific construction traffic, and therefore it would not be enforceable. This would not be in accordance with paragraph 71 of circular 11/95 and the same argument in respect of enforceability would apply for a Section 106 Agreement.

Suggested Condition 7: The development shall comply with the design standards of the Leicestershire County Council in respect of parking, turning, access widths, gradients, surfacing, visibility splays etc. In the opinion of the Local Planning Authority should the Director of Environment and Transport (Highways) be concerned about these details then this should have been negotiated during the course of the application. Parking provision (condition 10), surfacing (condition 5) and visibility splays (condition 9) would be subject to separate conditions in any case.

#### Developer Contributions and Affordable Housing Provision

The application proposes 28 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

Policy 15 of the adopted Core Strategy is considered to be consistent with the NPPF which seeks to identify the size, type, tenure and range of housing that is required and plan housing

development to reflect local needs, particularly for affordable housing. The NPPF states that Local Planning Authorities should where they have identified that affordable housing is needed, set policies for meeting this need on site. Notwithstanding the fact that affordable rent is now within the definition of affordable housing at a national level, Policy 15 is considered to remain relevant to the consideration of this application.

The application is accompanied by a Viability Assessment which concludes that the figures shown prove that the scheme would be unable to sustain an affordable housing obligation of 40% and that providing the 30% provision results in a developer's return of 17.5% profit. These figures have been assessed and confirmed by an independent viability consultant. The assessment also states that current government guidance state that local authorities should be reasonable and have regard to scheme's viability when considering developers request to reduce section 106 obligations (including affordable housing) as set out in paragraph 173 of the NPPF.

The threshold for the provision of affordable housing in rural areas is 4 dwellings and above. As this scheme is in a rural area, policy set out in the Core Strategy (Policy 15), indicates that 40% of the dwellings should be for affordable housing. Of these properties, 75% should be for social rent and 25% for intermediate tenure. The provision of affordable housing for this site in strict accordance with the policy would equate to 12 no. dwellings; 9 no. for social rent and 3 no. for intermediate tenure.

The latest housing register for Stanton Under Bardon stated that 62 applicants were seeking 1 bedroomed property; 26 applicants were seeking 2 bedroomed properties; 17 applicants were seeking 3 bedroomed properties and 2 applicants were seeking 4 or more bedroomed properties. It is considered that there is a high demand within Stanton Under Bardon and the provision in this development is welcomed.

As the site is situated within Stanton Under Bardon there is a requirement to provide 40% affordable housing in line with Policy 15 of the adopted Core Strategy. This scheme proposes 8 no. affordable housing units with 6 for social rent and 2 for intermediate tenure, which equates to approximately 30% affordable housing provision and is therefore not strictly in compliance with the 40% target. . It is considered, however, that having regard to the Viability Assessment and the advice at paragraph 173 of the NPPF requiring Decision Makers to have regard to the need to provide competitive returns to developers and landowners that this level of affordable housing is acceptable.

It is considered that the 30% proposed does allow for a number of affordable units to be provided. The Viability Assessment has been assessed and it has been confirmed by an independent viability consultant that the full 40% target would mean that the scheme would be un-viable and it is on these basis only that a 30% provision is considered acceptable in this case.

It is considered that there is an identified need for a range of affordable units in Stanton Under Bardon. The current scheme proposes four x 2 bed properties and 4 x 3 bed properties, as such the proposal will help meet the identified need, and it is considered necessary to provide them within this development. This scheme has triggered the request for affordable housing and in line with Core Strategy Policy 15 is considered to be directly related to the development. 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.

## 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).

Whilst Saved Local Plan policies REC2 and REC3 have limited consistency with the NPPF, due to a lack of up to date evidence, Policy 19 of the Core Strategy is more up to date as this policy was adopted in 2009 which sets out the needs for green space and play provision.

Due to the residential element of the development the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD.

The scheme does not propose any on site public open space and therefore a contribution in lieu must be considered in order to overcome a planning objection due to the lack of on-site public space.

Informal Equipped Children's Play Space: - The application site is located within 400 metres of existing equipped facilities at Stanton under Bardon Primary School Recreational Facility. Under the terms of the Council's policy an off-site contribution can be made towards this site. The development proposed would increase the number of residents within Stanton under Bardon and as such would impact upon existing facilities at this site. Within the Green Space Strategy 2005-2010, Stanton under Bardon was found to have a deficiency of equipped play space for its population, of -0.02 when compared with the National Playing Fields Standard. The quality of the Stanton under Bardon Primary School Recreational Facility was considered within the Quality and Accessibility Audit of 2005 which awarded Stanton under Bardon Primary School Recreational Facility 31.5%. The Audit states that "The village has an equipped area for children's play adjacent to the village school. Facilities, are, however, poor quality and offer little for 5-18 year olds...Cost Estimate £50,000".

With plans to address the quality of the existing facilities for the existing population Stanton Under Bardon Parish Council have requested that a contribution be sought towards the provision of additional play equipment and re-surfacing of swings at the facility to mitigate the impact the development would have on the existing facilities through additional use and resulting wear and tear. The contribution comprises of £19,585.80 for the provision of additional swings for the equipped play space and £9,544.50 for future maintenance of this new equipment.

The contribution has been requested on the basis that the size of the units proposed (2, 3, 4 bed units) are likely to appeal to families who are likely to use the existing facilities and increase the wear and tear of the equipment. They are likely to use this facility due to the proximity of it to the application site. Given the above the development is considered to be related to the site. The contribution being secured will help to alleviate the impact from the future occupiers (as a result of the development) upon the existing facilities by providing



additional facilities and it is considered, based on the above, that the development justifies the provision of additional facilities.

As a result it is considered that a contribution request for the necessary provision of them and to mitigate the impact stated above is both directly, fairly and reasonably related in kind to this development.

Informal (Un-equipped) Children's Play Space: - Stanton Under Bardon has a sufficiency of casual/informal play space for its population when compared with the National Playing Fields Standard. It is acknowledged that a development would result in additional users of this space and could result in the decrease in quality of these spaces. However, in light of the facilities there the impact would not be significant. It is therefore considered that the development would not significantly impact upon the existing sufficiently to adequately justify additional informal play space.

Formal Recreation Space: - Whilst there are no traditional forms of outdoor open space for sports within Stanton Under Bardon the Council's SPD on Play and Open Space Guide recognises allotments as a form of outdoor open space/formal recreation. Within the Green Space Strategy 2005-2010, Stanton Under Bardon was found to have a deficiency of outdoor sports (-0.50) for its population when compared with the National Playing Fields Standard. Stanton under Bardon Parish Council have requested a financial contribution for the provision of new allotments to be located to land rear of Main Street, which falls within 1 km of the application site. However, in the absence of any assessment of the existing quality of the allotments and information to substantiate the requirement for additional allotments, then it is considered that there has been no demonstration that as a result of the development there has been an increased pressure or need for allotments. On this basis it is not considered that a contribution would meet the CIL regulations.

As such, the only contribution sought is £19,585.80 for the provision of informal equipped play facilities and £9,544.50 for the maintenance of equipped play facilities. It is considered that this play and open space contributions is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this case. Accordingly the scheme would meet the requirements of Policies 1 and 19 of the adopted Core Strategy, Policies REC2 and REC3 of the adopted Local Plan, supported by the Council's Play and Open Space SPD as well as meeting the tests within the CIL Regulations and overarching intentions of the NPPF.

#### Other Developer Contributions

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

Director of Environment and Transport (Civic Amenity) requests £1,741.00;

Director of Adults and Communities (Libraries) requests 1,720.00;

The National Forest requests £3,360.00;

Director of Environment and Transport (Highways) does not request any financial contributions.

Director of Children and young Peoples Services (Education) does not request any financial contributions;

Directorate of Chief Executive (Ecology) does not request any financial contributions;

Stanton Under Bardon Parish Council (for Play and Open Space) requests £44,633.70.

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 Regulations 2010:-

Affordable Housing (8 units)  
National Forest planting (£3,360.00)  
Play and Open Space (£29,130.30).

The application was accompanied by a draft heads of terms which sought to secure and delivery of such contributions. A Section 106 agreement is under negotiation to secure the above mentioned financial contributions and provision of affordable housing units.

### Other Issues

#### Arboriculture

Concerns have been raised in respect of the destruction of natural habitat, including bushy ground cover and large mature trees and insufficient consideration of priority species.

The application has been accompanied by an arboricultural survey which states that the development would result in removal of the apple, goat willow and central former field boundary hedge for the proposed access road, whilst the remaining overgrown boundary hedgerows will need to be cut back and that there is no potential conflict between the proposed layout and the trees growing within the neighbouring gardens.

The Borough Council's arboricultural Consultant agrees with the accurate analysis of the trees on site provided by the arboricultural report that no trees of importance remain on the site, but considers that the existing landscaping buffer to the north contains gaps which would benefit from additional native tree planting. This area falls outside of the application boundary, however the applicant is committed to providing financial contributions to the National Forest who intend to use the money to provide additional tree planting within the vicinity.

#### Ecology

The accompanying ecology appraisal states that there are no statutory designated sites to be affected by the proposed development. The grassland is of limited botanical species diversity whilst the trees, hedgerows and scrub provide structural diversity to the site and are recognised as providing bird nesting habitats and where possible should be retained. The appraisal states that reptiles and badgers do not pose a constraint to the proposal, whilst an internal inspection of the roof void by a licensed bat specialist prior to works would be prudent. In addition, the appraisal states that ponds to the east of the site could provide suitable breeding habitat for great crested newts and it is recommended that a full great crested newt survey of these ponds is undertaken, in accordance with the Great Crested Newt Mitigation Guidelines. The appraisal also makes a number of recommendations for bird, bat and insect boxes and suggests native species for additional planting.

The Directorate of Chief Executive (Ecology) is similarly satisfied within the ecology report in terms of the impact upon bats, reptiles, badgers and nesting birds and agrees with the recommended enhancements for the site and confirms that the application will have no impact on any designated site of ecological importance.

Given that the ponds were unable to be surveyed, the Directorate of Chief Executive (Ecology) recommends that a planning condition be imposed which secures the erection of amphibian fencing along the sites boundaries and that the site must be thoroughly hand searched by a licensed ecologist for great crested newts and that should great crested newts be found then Natural England must be contacted.

The request for amphibian fencing can be secured by the imposition of a planning condition, however in respect of the hand searching and contacting Natural England this would not meet the tests of circular 11/95 and therefore would be included as a note to applicant, rather than by a planning condition.

In summary, subject to the imposition of a planning condition, the scheme is not considered to have any significant detrimental impacts upon ecological importance or protected species and is therefore in accordance with the overarching intentions of the NPPF.

### Archaeology

The application has been accompanied by a heritage statement in accordance with Policy BE13 of the Local Plan. The heritage assessment concludes that the proposed development site has only locally significant archaeological potential and recommends that a watching brief and archaeological recording during the preliminary stage of development could be achieved. An Archaeological trial trenching was undertaken and an evaluation report was submitted.

Both Saved Policies BE13 and BE14 are considered to have limited conflict with the intentions of the NPPF and therefore afford consideration in the determination of this application.

The application and accompanying documentation has been considered by the Director of Historic and Natural Environment (Archaeology) who welcomes the evaluation report and concludes that archaeological remains are unlikely to be disturbed by the proposed development and that no further archaeological work is required as part of this scheme.

In summary, the scheme is considered to be in accordance with Saved Policies BE13 and BE14 of the Local Plan and the overarching intentions of the NPPF.

### Drainage and Flood Risk

Concerns have been expressed about the issues of flooding. The site is not located within any designated Flood Zones, however the scheme has still been considered by the Environment Agency, Severn Trent Water and the Head of Community Services (Land Drainage) all of whom have no objection subject to the imposition of a planning condition for drainage plans for the disposal of surface water and foul sewage. Accordingly it is considered that the proposed works will be in accordance with Policy NE14 of the Local Plan and overarching guidance contained within the NPPF.

### Cliffe Hill Quarry

Concerns were originally expressed by Head of Community Services (Pollution) in respect of the potential impacts from quarry blasting upon the proposed dwellings and future occupiers from the nearby Cliffe Hill Quarry. Following these concerns additional investigations were undertaken by the Council. These revealed that there would be no material adverse impacts on either the structural stability of the dwellings or on the health and wellbeing of the future occupants. Following these investigations the Head of Community Services (Pollution) has confirmed he has no objections to the application.

### Storage of Refuse/Recycling Facilities

The scheme has been considered by Head of Business Development and Street Scene Services (Waste Minimisation) who has no objection to the scheme, subject to the imposition of a planning condition.

## Phasing of the Development

The applicant has confirmed that the development will be built out in one phase.

## Neighbour Concerns not Previously Addressed

The alternative site which provides a community centre is currently under consideration within this agenda. However, to clarify the situation in respect of this, there is no policy requirement for a residential proposal within the village to bring forward the community centre. Policy 16 does however support the relocation of the community centre to a more central location within Stanton Under Bardon, but this could be delivered through a stand alone application.

## Land ownership is not a material planning consideration.

Concerns have been raised that there are insufficient local services. As a result of the developer contributions consultation either no requests were made from these service providers, or if requests were made they were not considered to be CIL compliant. Accordingly, the existing services are considered to have capacity to cater for the new residents. Where an impact has been identified, it will be mitigated through a contribution request.

Noise, dust, disturbance and dirt during construction are not material planning considerations over which the Local Planning Authority would have control.

A condition (Condition 4) is suggested in respect of proposed levels of the site and proposed finished floor levels.

## **Should planning committee be minded to approve this application your officers would recommend that the following conditions be attached to the grant of permission:-**

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

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

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

Location Plan Scale 1:2500 Drawing No. S000\_100\_02; Location Plan Scale 1:1250 Drawing No. S000\_100\_02; House Type S200 CGS4 (OPP) Drawing No's S200.03; S200.04; House Type P206 B1 – 5 (AS) Drawing No's P206.B1.01; P206.B1.02; House Type P206 B1-5 (OPP) Drawing No's P206.B1.03; P206.B1.04; House Type P332 --L5 (AS) Drawing No's P332.L.01; P332.R.02; House Type P332 --L5 (OPP) Drawing No's P332.L.03; P332.R.04; House Type P341 – WD5 (AS) Drawing No's P341.09; P341.10; House Type P341 – D5 (OPP) Drawing No's P341.03; P341.04; House Type H406 - - - 5 (AS) Drawing No's H406.01; H406.02; House Type H436 - - - 5 (AS) Drawing No's H436.01; H436.02; House Type H436 - - - 5 (OPP) Drawing No's H436.03; H436.04; House Type H451 - - - 5 (AS) Drawing No's H451.01; H451.02; House Type H451 - - - 5 (OPP) Drawing No's H451.03; H451.04; House Type H452 - - - 5 (AS) Drawing No's H452.01; H452.02; House Type H452 - - - 5 (OPP) Drawing No's H452.03; H452.04; House Type H455 - - - 5 (AS) Drawing No's H455.01; H455.02; House Type H455 - - - 5 (OPP) Drawing No's H455.03; H455.04; House Type H469 - - - 5 (AS) Drawing No's H469.01; H469.02; House Type H469 - -

– 5 (OPP) Drawing No's H469.03; H469.04; Single Garage Drawing No's E01; E01.01; Single Shared Garage Drawing No. E06 received by the Local Planning Authority on 11 August 2011; Planning Layout Drawing No. S5510/100/01 Rev G; House Type P206 BE – 5 (AS) Drawing No's P206.01; P206.02; House Type P206 BE – 5 (OPP) Drawing No's P206.03; P206.04 received by the Local Planning Authority on 17 October 2011;

House Type N300 CGG4 (AS) Drawing No's N300.01; N300.02; House Type N300 CGG4 (OPP) Drawing No's N300.03; N300.04; House Type N300 CG14 (AS) Drawing No's N300.09; N300.10; House Type N300 CG14 (OPP) Drawing No's N300.11; N300.12; House Type H433 ---5 (AS) Drawing No's H433.01; H433.02; House Type H433 ---5 (OPP) Drawing No's H433.03; H433.04 received by the Local Planning Authority on 24 October 2011;

House Type P383 BE-5 (AS) Drawing No's P383.01; P383.02; House Type P383 BE-5 (OPP) Drawing No. P383.03; P383.04 received by the Local Planning Authority on 3 November 2011;

Planning Layout – Boundary Treatment Plan Drawing No. S5510/500/01 Revision A; Soft Landscape Proposals Drawing No. Bir.3845-01; 1800mm Close Boarded Fence Details Drawing No. SD/600/13; 1800mm High Screen Wall Detail Drawing No. SD/600/02 received by the Local Planning Authority on 18 November 2011.

*Reason: For the avoidance of doubt and in the interests of proper planning.*

- 3 No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the Local Planning Authority. The scheme shall then be implemented in accordance with those approved materials

*Reason: To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.*

- 4 No development shall commence until the proposed ground levels of the site and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

*Reason: To ensure that the development has a satisfactory visual appearance to accord with Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.*

- 5 Notwithstanding the submitted plans, no development shall take place until full details of hard and soft landscape works have been submitted to and approved 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

*Reason: In the interests of visual amenity, to accord with Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.*

- 6 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.

*Reason: In the interests of visual amenity, to accord with Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.*

- 7 No development shall commence until a scheme showing the siting, scale and appearance of amphibian fencing has first been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the commencement of development and thereafter retained.

*Reason: To ensure that great crested newts are protected from the development to accord with the National Planning Policy Framework and Government Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations.*

- 8 No development shall commence until drainage plans for the disposal or surface water, and foul sewage incorporating sustainable drainage principles have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development first being 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 in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within the National Planning Policy Framework.*

- 9 Before the first occupation of the first dwelling, visibility splays of 2.4 metres by 33 metres shall be provided at the junction of the access with Main St. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained this way thereafter. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

*Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.*

- 10 Before the first occupation of the respective dwelling hereby permitted, off-street car parking provision shall be made within the application site in accordance with the details shown on the Planning Layout Drawing No. S5510/100/01 Revision G shall be provided and shall not be obstructed and shall thereafter permanently remain available for car parking.

*Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.*

- 11 All windows serving rooms labelled En-suite, E.S, WC and/ or Bath, as identified on Drawings No.'s S200.03; P206.01; P206.03; N300.01; N300.03; N300.09; N300.11; P383.01; P383.03; P332.L.01; P332.L.03; P341.09; P.341.03; H406.01; H433.01; H433.03; H436.01; H436.03; H451.01; HE51.03; HE52.01; H452.03; H455.01; H455.03; H469.01; H469.03 shall be fitted with obscure glass and be retained this way thereafter.

*Reason: To safeguard amenities of neighbouring properties to accord with Policy BE1 (criteria i) of the adopted Hinckley and Bosworth Local Plan.*

- 12 Any garages, once provided, shall thereafter permanently remain available for car parking.

*Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.*

### **Notes to Applicant:-**

1. The site must be thoroughly hand searched by a licensed ecologist for great crested newts and that should great crested newts be found then Natural England must be contacted.
2. 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- (telephone 0116 3052202.)

The proposal is situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.

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.

The proposed roads do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority.

The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded.

For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3056782.

If the telegraph pole requires relocation, this shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the highway authority.

In order to provide the visibility splays, it may be necessary to trim the hedge back and relocate the telegraph pole.

Your attention is drawn to the requirement contained in the Highway Authority's design document to provide Traffic Calming measures within the new development.

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

**Item: 02**

**Reference: 11/00988/OUT**

**Applicant: Mr Nigel Hainsworth**

**Location: Rear Of 169 Main Street Stanton Under Bardon**

**Proposal: ERECTION OF 38 DWELLINGS, COMMUNITY CENTRE AND FORMATION OF ALLOTMENTS, BALANCING POND WITH ASSOCIATED ACCESS (OUTLINE - ACCESS ONLY)**

**Target Date: 30 April 2012**

**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 outline permission for the residential development of land for up to 38 dwellings, the development of a community centre and the creation of new allotments along with an associated access and a surface water balancing pond. Access is the only matter for determination at this stage, with all other matters being reserved for approval at a later date.

The site will be subdivided into three elements. The majority of the site (2.47 hectares) is proposed for residential development, for up to 38 dwellings. This comprises the parcel of land to the north west of the site, to the rear of the dwellings on the eastern side of Main Street. To the south east of the site, a parcel of 0.78 hectares is proposed for allotments. These will constitute 21 half plots and 15 full plots. The Village Hall is proposed on a parcel of land of 0.15 hectares adjacent to the southern boundary, and in close proximity to the site access. In addition 17 parking spaces are to be provided to serve the Village Hall and the Allotments. The water balancing pond is proposed in the southern corner of the site.

The proposed development will be accessed from Main Street via a new junction that incorporates land from number 169 Main Street. A new access arrangement including a new garage for number 169 will also be provided. The main access will connect to the main spine road providing access to the area of housing. Changes in surface treatment will be used to



add character and define the hierarchy of space. Access is provided for the Village Hall and allotments from the main spine road along the southern boundary of the site.

### The Site and Surrounding Area

The site lies to the south of Main Street Stanton Under Bardon, on the eastern side of the village. The site is currently split into two areas. The area closest to Main Street is currently used for allotments and the area to the south is used as a paddock. The site extends to 2.47 hectares. The site is surrounded by a school playing field to the south and is backed onto by residential development to the west. The eastern and southern boundaries of the site are defined by mature hedgerows. There is a public footpath within the site which runs along the western boundary. The land falls slightly from the north to the south.

In the wider area there are a variety of styles of development dating from the 19th century to the present day. The village follows a linear street pattern. There is little in the way of local architectural detail, however the majority of dwellings are of red brick and tile construction.

### Technical Documents submitted with application

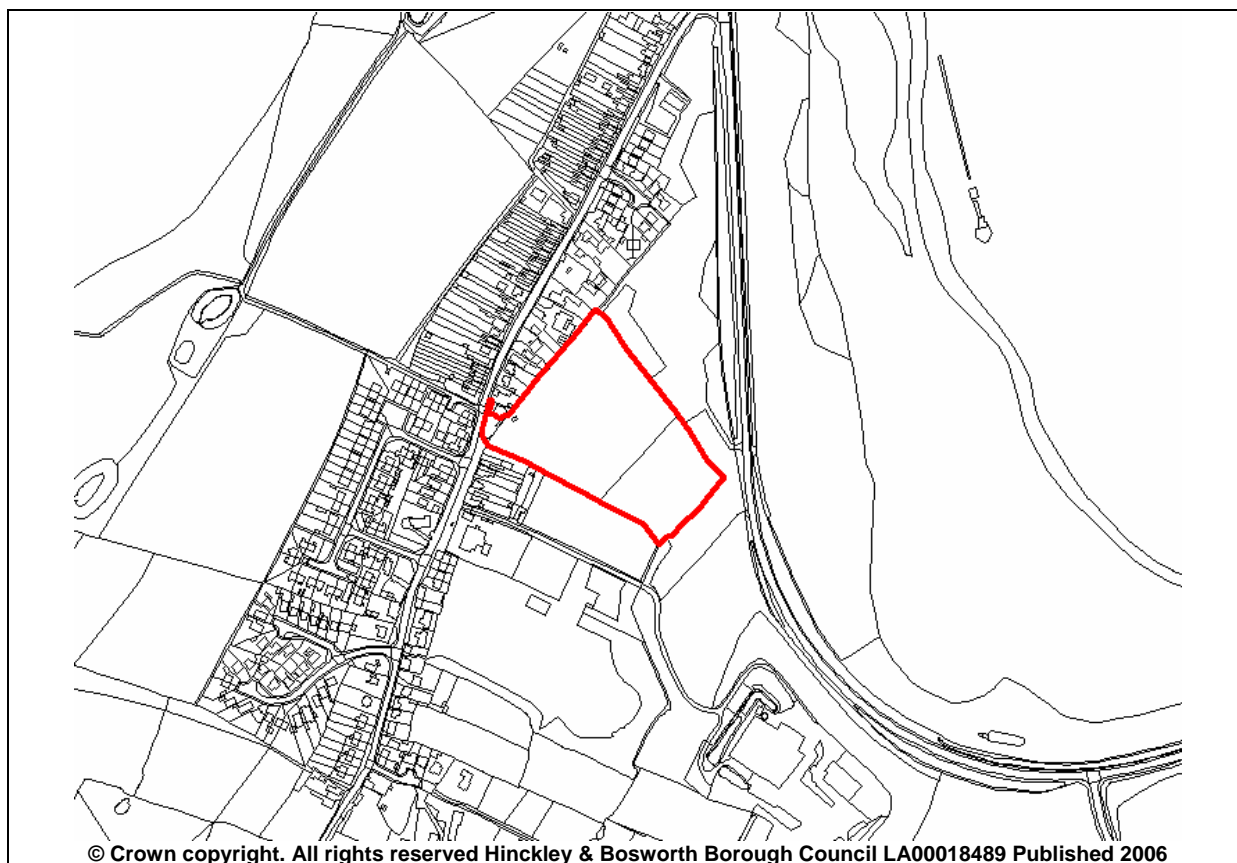
The application has been accompanied by a draft S106 agreement.

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

- Design and Access Statement
- Planning Statement
- Arboricultural Survey
- Ecology Appraisal
- Transport Statement
- Viability Assessment
- Noise Statement
- Land Contamination Report
- Flood Risk Assessment
- Archaeology Assessment
- Topographical Assessment
- Statement of Community Involvement

### **Relevant Planning History:-**

None relevant.



### **Consultations:-**

No objections have been received from:-

Directorate of Chief Executive (Ecology)  
Head of Community Services (Pollution).

No objection subject to conditions have been received from:-

Directorate of Chief Executive (Archaeology)  
Director of Environment and Transport (Rights of Way)  
Head of Community Services (Land Drainage)  
The Borough Council's Arboricultural Consultant  
Environment Agency  
Severn Trent Water Limited.

Director of Environment and Transport (Highways) has commented as follows:- . No objections in respect of highway safety and the design of the access. However they objected to the application on sustainability grounds. This is in association with another application currently submitted in Stanton Under Bardon for the development of 28 dwellings which is reported elsewhere on this agenda. The Director of Environment and Transport (Highways) have confirmed that only one of the applications would be supported from a sustainability point of view, and therefore would recommend refusal on the other application.

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

- a) Director of Environment and Transport (Civic Amenity) requests £2,450 for the additional civic amenity waste generated as a result of the development at the Coalville site
- b) Director of Adults and Communities (Libraries) does not request any financial contribution
- c) Director of Children and young Peoples Services (Education) does not request any financial contributions
- d) Directorate of Chief Executive (Ecology) does not request any financial contributions
- e) Director of Environment and Transport (Highways) does not request any financial contributions.

The National Forest has stated that as the application is in outline form, they request that a Schedule is added to the s106 agreement that secures 0.33ha of either on or off-site planting or a financial contribution in lieu of planting of £6,600, based on 0.33ha at £20,000 per hectare.

The Primary Care Trust does not request any financial contributions

The Leicestershire Constabulary Crime Reduction Officer requests £23,028

Play and Open Space contribution request £40,998.20

County Councillor Sprason is in support of the application due to the excellent benefits the proposal will bring to the wider community.

Midland Quarry Products object to the proposal due to their concern at the impact the proposed development may have on the operation of the quarry. They consider that the developer should undertake a full assessment of what the potential impacts could be.

Site notice and Press notice were displayed and neighbours notified.

19 letters of representation have been received raising the following issues:-

- a) support has been offered for the additional homes and the more centralised location of the Village Hall
- b) concerns in respect of impacts on the highway, parking issues, unsafe access and visibility
- c) impacts on the school as the area becomes heavily congested at peak drop off and collection times
- d) loss of allotments
- e) flooding concerns and drainage capacity issues
- f) overlooking and loss of privacy
- g) additional information on proposed boundary treatment is required
- h) insufficient local amenities and services to sustain new residents
- i) loss of view
- j) adverse impact on saleability of property
- k) noise, dust, disturbance and dirt during construction
- l) insufficient parking for the Village Hall
- m) new allotments must be of a better standard than those existing and must be provided with better services
- n) detrimental impact on local wildlife and tranquillity.

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

Cyclists Touring Club  
Head of Business Development and Street Scene Services  
Parish Council

### **Development Plan Policies:-**

#### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012  
The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122  
Government Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations

#### Regional Policy East Midlands Regional Plan 2009

Policy 2 Promoting Better Design:

#### Local Plan 2006-2026: Core Strategy 2009

Policy 12: Rural Villages  
Policy 15: Affordable Housing  
Policy 19: Green Space and Play Provision  
Policy 21: National Forest

#### Hinckley and Bosworth Local Plan 2001

The site lies both within and outside of the settlement boundary of Stanton Under Bardon, as defined in the adopted Hinckley and Bosworth Local Plan.

Policy NE5: Outside Development Limits  
Policy RES5: Residential Proposals on Unallocated Sites  
Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities  
Policy BE1: Design and Siting of Development  
Policy BE13: Initial Assessment of Sites of Archaeological Interest and Potential  
Policy BE14: Archaeological Field Evaluation of Sites  
Policy BE15: Preservation of Archaeological Remains in Situ  
Policy BE16: Archaeological Investigation and Recording  
Policy REC2: New Residential Development – Outdoor Open Space Provision for Formal Recreation  
Policy REC3: New Residential Development - Outdoor Play Space for Children  
Policy NE14: Protection of Surface Waters and Groundwater Quality  
Policy T3: New Development and Public Transport  
Policy T5: Highway Design and Vehicle Parking Standards  
Policy T9: Facilities for Cyclists and Pedestrians  
Policy T11: Traffic Impact Assessment

#### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development  
Supplementary Planning Document: Play and Open Space  
Supplementary Planning Document: Affordable Housing  
Supplementary Planning Document: Rural Needs

## Other Material Policy Guidance

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

The SHLAA Review 2010 was published in April 2011 and the application site (AS531) was assessed through this process. The site was identified as being adjacent to the settlement boundary, with its access within the settlement boundary, and as having potential archaeological interest. The site may be suitable for residential development subject to the access being considered acceptable and the re-location of the allotments to a suitable location.

### Landscape Character Assessment July 2006

Stanton Under Bardon is located in the Charnwood Fringe Character Area (Area A) and specifically characterises the built environment as twentieth century development with estate pattern with a mixture of two and single storey housing.

### **Appraisal:-**

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

### Principle of Development

The site is situated outside the settlement boundary of Stanton Under Bardon, as defined on the proposals map of the adopted local plan, and is therefore within an area designated as open 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 development does not meet any of these criteria. However since the publication of the NPPF, criteria A – C of policy NE5 are considered to have conflict with the intentions of the NPPF and therefore have limited weight in the determination of the application.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. The development under consideration is proposed on land which is currently designated as part allotments and part open countryside. It is considered that the local economy would benefit through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. The proposed application confirms that there is an economic demand to develop the land, and through the development phases, additional money will be brought into the local economy. Accordingly the site is considered to be consistent with the 'economic role'.

Social – in this respect developments should support 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 environment. Through developing this extensive site with a range of dwellings the development will appeal to a wider spectrum within the local market, and will increase local market choice. The dwellings provided will contribute towards the rural housing shortfall, and the provision of the affordable units will provide for those who may have otherwise been excluded from this community. Further, the provision of the community centre and new allotments in this central location will be beneficial to the local community in terms of health and wellbeing.

Environmental - to fulfil this role developments should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. As mentioned, the parcel of land to be developed comprises part greenfield land and part allotments. Through its redevelopment, new allotments of a better quality will be provided and the dwellings proposed will be built to the latest environmental standards. Further, through the landscaping of the site, biodiversity will be improved.

In summary, based on the above discussion, the development proposed is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

#### Five Year Housing Land Supply

Since the publication of the NPPF housing applications should be considered in the context of the presumption in favour of sustainable development. It states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of housing. The NPPF retains the need to provide five years worth of housing against their housing requirements; it goes further than PPS3 and states that there should be an additional 5% buffer and where there is a persistent under delivery of housing the buffer should be increased to 20%.

As of October 2011 the Local Authority is unable to secure a five year housing land supply of deliverable and developable sites. The cumulative shortfall of dwellings has now been identified and equates to a 4 years and 9 months of supply.

As highlighted above the NPPF requires a five year supply of housing, plus either a 5% or 20% buffer. The Council's current position is of a supply of 4 years and 9 months and therefore housing land supply policies cannot be considered to be up to date where an authority does not have a 5 year supply.

In summary, whilst policies NE5 and RES5 are not supportive of residential development outside of the settlement boundary, given their policy conflict with the intentions of the NPPF little weight can be afforded to their consideration within the determination of this application. Given the presumption in favour of sustainable development and the Council's lack of a five year housing land supply, this is considered a significant material consideration in the determination of this application. It is considered that the approval of this application would bring forward 38 units which would 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. Notwithstanding this position, it should be noted that this application seeks consent for 38 Units, which constitutes an over provision of dwellings for Stanton Under Bardon as recommended within the Core Strategy. The Core Strategy recommends the provision of 30 dwellings. Consequently the applicant has submitted supplementary justification for the additional units, which concludes that the additional dwellings will have no

adverse impacts on the settlement and may improve its sustainability. This information has been appraised by the Local Planning Authority and the conclusion reached is considered valid.

### Impact on the Countryside

As discussed earlier in this report the application site in policy terms lies outside of the defined settlement boundary for Stanton Under Bardon and is within the open countryside. Paragraph 17 of the NPPF states that the intrinsic character and beauty of the countryside should be identified and that support should be given to ensure thriving rural communities within it. Further, paragraph 109 states that the planning system should protect and enhance valued landscapes.

As previously discussed, whilst limited weight can be given to saved Policy NE5 following the release of the NPPF, due to its presumption in favour of sustainable development, the design criteria i-iv remain generally relevant to development within the countryside and are consistent with the NPPF. It states that development will have to meet the following criteria:-

- a) it does not have an adverse effect on the appearance or character of the landscape
- b) it is in keeping with the scale and character of existing buildings and the general surroundings
- c) where necessary it is effectively screened by landscaping or other methods
- d) the proposed development will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

Whilst the site is located outside the settlement boundary, it lies adjacent to the existing built form of Stanton Under Bardon. Further, the site is subdivided in that the bulk of the built development will be constructed adjacent to the built form of the settlement and the allotments, further to the south east, adjacent to the surrounding open countryside. The allotments will both provide a green buffer to the development and aid its assimilation into the surrounding open countryside and landscape.

In terms of wider visual impacts, there is the presence of native hedgerow surrounding the site which is considered to provide both a visual and physical separation from the countryside beyond ensuring that the development does not encroach upon the countryside and given the level of cover it is likely that there would only be partial glimpses of the development from outside of the site. In terms of views from the designated public right of way, as this scheme is outline and is considering details of the access only, further impacts from the development in terms of visual amenity will be discussed in more detail with the submission of any reserved matters application.

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, it should be considered that this site in context within the surrounding development does not represent 'typical' open rural countryside location, nor is it considered to significantly encroach upon the countryside, due to existing landscape buffers.

### Overall Appearance

As mentioned within the introduction, this is an outline application which seeks detailed approval for the access only. An indicative plan has been submitted, which indicates number of dwellings and possible layouts, but its detail is not for consideration within this application.

### Impact upon Residential Amenity

The impact on adjacent occupiers particularly in terms of privacy, loss of sunlight and daylight and overbearing form, will be a primary consideration at the reserved matters stage when the scale, layout and appearance are presented for approval.

The dwellings predominantly affected by the proposed development will be numbers 183 - 119 Main Street (on the eastern side of the road). With the exception of number 169 Main Street, by virtue of their long rear gardens, a good degree of separation should be achieved between the proposed dwelling and those existing. Notwithstanding this, any reserved matters application would need to satisfy the requirements of the Council's Adopted Supplementary Planning Guidance on New Residential Development to ensure that the development accords with Local Plan Policy BE1.

Whilst a number of neighbour objections have been received on the grounds of privacy, overlooking and other residential amenity related issues; these matters will be appropriately addressed at the reserved matters stage. In the current outline application there is no information or indication that the development will result in any adverse and material impact upon adjacent neighbours.

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

Saved Policies T5, T9 and T11 are all considered to have no or limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

The application was accompanied by a Transport Statement which contends that there are no road safety issues at the site. The bus services and opportunities for walking and cycling have also been summarised, and reflect the rural village location of the proposal site. Accordingly in light of the above, it was concluded that there are no transportation reasons why the proposed application should not proceed.

The application proposes a single new vehicular access to the development from Main Street. No objections in respect of highway safety and the design of the access have been received from the Director of Environment and Transport (Highways). Details in respect of parking provision and layout have not been submitted at this stage and will be dealt with by any reserved matters application. Notwithstanding this, The Director of Environment and Transport (Highways) have objected to the application on sustainability grounds. This is in association with another application currently submitted in Stanton Under Bardon for the development of 28 dwellings. The Director of Environment and Transport (Highways) have confirmed that only one of the applications could be supported from a sustainability point of view, and therefore would recommend refusal on the other application.

In response to highway related letters of objection, the scheme has been considered by the Director of Environment and Transport (Highways) who raise no objections in terms of highway safety.

In the opinion of the Local Planning Authority the Director of Environment and Transport (Highways) has not provided a sufficient and clear statement to justify which application they seek to be refused. In the absence of a full reasoning behind their objection the Council are unable to assess whether this objection may or may not be sufficient to outweigh the merits of this application and the no in principle policy objection endorsed by the overarching intentions of the NPPF and the Core Strategy. Further the reason proposed it is not



sufficiently justified or detailed as to demonstrate a severe impact capable of sustaining refusal.

Should this application be approved, the Director of Environment and Transport (Highways) has recommended a number of conditions.

Suggested condition 1: Drainage shall be provided within the site such that surface water does not drain into the Public Highways. In the opinion of the Local Planning Authority there are no significant variations in levels and therefore this condition is not considered necessary.

Suggested Condition 2: The existing vehicular access shall be closed permanently within one week of the new access being brought into use. In the opinion of the Local Planning Authority the existing access is being amended and therefore this will not be necessary or possible.

Suggested Condition 5: Two car parking spaces for a dwelling of up to three bedrooms, three spaces for a dwelling with four or more bedrooms shall be provided. These matters are for determination in any Reserved Matters Application and thus this suggested condition is not considered necessary.

Suggested Condition 6: Details of the routing of construction traffic shall be provided. In the opinion of the Local Planning Authority it would be difficult to differentiate between the general traffic and the specific construction traffic, and therefore it would not be enforceable. This would not be in accordance with paragraph 71 of circular 11/95 and the same argument in respect of enforceability would apply for a Section 106 Agreement.

#### Developer Contributions and Affordable Housing Provision

The application proposes 38 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

Policy 15 of the adopted Core Strategy is considered to be consistent with the NPPF which seeks to identify the size, type, tenure and range of housing that is required and plan housing development to reflect local needs, particularly for affordable housing. The NPPF states that Local Planning Authorities should where they have identified that affordable housing is needed, set policies for meeting this need on site. Notwithstanding the fact that affordable rent is now within the definition of affordable housing at a national level, Policy 15 is considered to remain relevant to the consideration of this application.

The application is accompanied by a Viability Assessment which concludes that the figures shown prove that the scheme would be unable to sustain an affordable housing obligation of 40%. However this said, the statement indicates that provision of 7 units, which would equate to a percentage of 18.5% would be viable and result in a developer's profit return of 20%. These figures have been assessed and confirmed by an independent viability consultant. The assessment also states that current government guidance suggests that local authorities should be reasonable and flexible, and have regard to a scheme's viability when considering developers request to reduce section 106 obligations (including affordable housing).

The threshold for the provision of affordable housing in rural areas is 4 dwellings and above. As this scheme is in a rural area, policy set out in the Core Strategy (Policy 15), indicates that 40% of the dwellings should be for affordable housing. Of these properties, 75% should be for social rent and 25% for intermediate tenure. The provision of affordable housing for this site would equate to 15 dwellings; 11 no. for social rent and 4 no. for intermediate tenure.

The latest housing register for Stanton Under Bardon stated that 62 applicants were seeking 1 bedroomed property; 26 applicants were seeking 2 bedroomed properties; 17 applicants were seeking 3 bedroomed properties and 2 applicants were seeking 4 or more bedroomed properties. It is considered that there is a high demand within Stanton Under Bardon and the provision in this development is welcomed.

It is considered that there is an identified need for a range of affordable units in Stanton Under Bardon and as such it is considered necessary to provide them within this development. This scheme has triggered the request for affordable housing and in line with Core Strategy Policy 15 are 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.

As the site is situated within Stanton Under Bardon there is a requirement to provide 40% affordable housing in line with Policy 15 of the adopted Core Strategy. This scheme proposes 7 no. affordable housing units with 5 for social rent and 2 for intermediate tenure, which equates to approximately 18.5% affordable housing provision and is therefore not strictly in compliance with the 40% target. It is considered, however, that having regard to the Viability Assessment and the advice at paragraph 173 of the NPPF requiring Decision Makers to have regard to the need to provide competitive returns to developers and landowners that this level of affordable housing is acceptable.

#### 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).

Due to the residential element of the development the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD.

The request for any developer must be assessed in light of the guidance contained within Circular 05/05 and comply with the more recent Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

The scheme does not propose any on site public open space and therefore a contribution in lieu must be considered in order to overcome a planning objection due to the lack of on-site public space.

Informal Equipped Children's Play Space: - The application site is located within 400 metres of existing equipped facilities at Stanton under Bardon Primary School Recreational Facility. Under the terms of the Council's policy an off-site contribution can be made towards this site. The development proposed would increase the number of residents within Stanton under Bardon and as such would impact upon existing facilities at this site. Within the Green Space Strategy 2005-2010, Stanton under Bardon was found to have a deficiency of equipped play space for its population, of -0.02 when compared with the National Playing Fields Standard. The quality of the Stanton under Bardon Primary School Recreational Facility was considered within the Quality and Accessibility Audit of 2005 which awarded Stanton under Bardon Primary School Recreational Facility 31.5%. The Audit states that "The village has an equipped area for children's play adjacent to the village school. Facilities, are, however, poor quality and offer little for 5-18 year olds...Cost Estimate £50,000".

With plans to address the quality of the existing facilities for the existing population Stanton Under Bardon Parish Council have requested that a contribution be sought towards the provision of additional play equipment and re-surfacing of swings at the facility to mitigate the impact the development would have on the existing facilities through additional use and resulting wear and tear. The contribution comprises £27,565.20 for the provision of additional swings for the equipped play space and £13,433 for future maintenance of this new equipment.

The contribution has been requested on the basis that the size of the units proposed (2, 3, 4 bed units) are likely to appeal to families who are likely to use the existing facilities and increase the wear and tear of the equipment. They are likely to use this facility due to the proximity of it to the application site. Given the above the development is considered to be related to the site. The contribution being secured will help to alleviate the impact from the future occupiers (as a result of the development) upon the existing facilities by providing additional facilities and it is considered, based on the above, that the development justifies the provision of additional facilities.

As a result it is considered that a contribution request for the necessary provision of them and to mitigate the impact stated above is both directly, fairly and reasonably related in kind to this development.

Informal (Un-equipped) Children's Play Space: - Stanton Under Bardon has a sufficiency of casual/informal play space for its population when compared with the National Playing Fields Standard. It is acknowledged that a development would result in additional users of this space and could result in the decrease in quality of these spaces. However, in light of the facilities there the impact would not be significant. It is therefore considered that the development would not significantly impact upon the existing sufficiently to adequately justify additional informal play space.

Formal Recreation Space: - As the application includes the provision of allotments, which constitute formal open space as defined within the Council's SPD on Play and Open Space Guide, there is no CIL compliant case for a further contribution of this nature.

As such, the only contribution sought is £27,565.20 for the provision of informal equipped play facilities and £13,433 for the maintenance of equipped play facilities. It is considered that this play and open space contributions is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the

proposal, and a contribution is justified in this case. Accordingly the scheme would meet the requirements of Policies 1 and 19 of the adopted Core Strategy, Policies REC2 and REC3 of the adopted Local Plan, supported by the Council's Play and Open Space SPD as well as meeting the tests within the CIL Regulations.

### Other Developer Contributions

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

Director of Environment and Transport (Civic Amenity) requests £2,450;

Director of Adults and Communities (Libraries) £0;

The National Forest requests a contribution of either £6,600 or 0.33ha of either on or off-site planting

Police Architectural Liaison requests £23,028

Director of Environment and Transport (Highways) £0

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 Regulations 2010:-

Affordable Housing (7 units);

National Forest planting (£6,600);

Play and Open Space (£40,998.20).

### Other Issues

#### Arboriculture

The application has been accompanied by an Arboricultural Survey which provides guidance for the design team and sets out the constraints relating to the trees on site.

The Borough Council's Arboricultural Consultant has commented that there are numerous valuable Oaks in the north-east and south-east hedgerows bordering the proposed allotments and rear gardens. Although root protection areas have been specified within the Arboricultural Survey Report, a Tree Protection Plan should be submitted for all trees identified on site to indicate the exact position of the protective barriers within the construction zone, and the site work space allowed outside the Root Protection area, between the garage footings and the protective barrier. As this is an outline application in which only the access is being considered in detail, the request for these additional details should be submitted with any reserved matters application. A note to applicant will be added advising of this. Comments have also been provided in respect of the landscaping of the site, however this issue will also be considered in greater detail with the submission of any reserved matters application.

#### Ecology

An ecology survey was submitted originally with the application. Following concerns raised by The Directorate of Chief Executive (Ecology) in respect of the possible presence of great crested newts, further survey work was conducted.

Following this, The Directorate of Chief Executive (Ecology) has raised no objections in respect of the proposal, subject to standard notes to applicant.

## Archaeology

The application has been accompanied by an archaeology report in accordance with Policy BE13 of the Local Plan. This concludes that there are a number of find spots for prehistoric and Roman artefacts in the local area and there is also the line of the possible Roman road that runs to the east of the site. There is also moderate potential for archaeological remains from all periods to be discovered during any ground-works associated with any new development.

As the site is largely covered by allotments, small trees and temporary structures, the preservation of the archaeological remains may be fairly good, but there may be damage to earth fast remains in some areas depending on the depth of cultivation. The impact of the new development on underlying archaeological remains would be significantly greater in the northern area and the area of the proposed new balancing pond.

On the basis of this report the Director of Historic and Natural Environment (Archaeology) was not satisfied that adequate investigation had been conducted to demonstrate that the development would not have a material adverse impact on archaeological remains. Accordingly it was requested that additional trial trenching be conducted prior to determination of the application. This additional work was undertaken by the applicant.

On this basis of findings from this additional work, and the report which followed, the Director of Historic and Natural Environment (Archaeology) has raised no further objections to the application subject to standard conditions.

In summary the scheme is considered to be in accordance with saved policies BE13 and BE14 of the Local Plan and the overarching intentions of the NPPF.

## Drainage and Flood Risk

The site is not located within any designated Flood Zones, however the scheme has still been considered by the Environment Agency, Severn Trent Water and the Head of Community Services (Land Drainage) all of whom have no objection subject to the imposition of a planning condition for drainage plans for the disposal of surface water and foul sewage. Accordingly it is considered that the proposed works will be in accordance with Policy NE14 of the Local Plan and the general guidance contained within the NPPF.

## Cliffe Hill Quarry

Concerns were originally expressed by Head of Community Services (Pollution) in respect of the potential impacts of quarry blasting on the proposed dwellings and future occupiers from the nearby Cliffe Hill Quarry. Following these concerns additional investigations were undertaken by the Council. These revealed that there would be no material adverse impacts on either the structural stability of the dwellings or on the health and well being of the future occupants. Following these investigations, Head of Community Services (Pollution) has confirmed that he has no objections to the application.

## Footpath

Director of Environment and Transport (Rights of Way) raises concerns that the official line of footpath R24 would be directly affected by one of the proposed buildings at the south eastern end of the application site, and would be impinged upon by the curtilages of several more towards the north western end. It is suggested that Planning consent should be conditional upon footpath R24 being provided by the applicant along the route shown by a broken black line on the attached plan. Design guidance is also given in respect of the desired

construction of the footpath. As this application seeks outline approval for the access only, and the layouts provided are for indicative purposes, the imposition of the proposed condition is not considered reasonable and necessary at this stage and therefore will not be imposed.

#### Neighbour Concerns not Previously Addressed

Concerns have been raised over the loss of the existing allotments. Although the existing allotments are to be lost, the application includes the provision of new allotments, which will be of a higher quality and will offer more choice due to their varying size.

It has been stated that additional information is required in respect of proposed boundary treatments. As this current application is outline, with only the access for detailed consideration, other matters, including landscaping will be considered at a later stage within a 'Reserved Matters' application.

Concerns have been raised that there are insufficient local services, such as schools, doctors and public transport to cater for the new population. In respect of this, as a result of the developer contributions consultation, either no requests were made from these service providers, or if requests were made, they were not considered CIL compliant. Accordingly, the existing services are considered to have capacity to cater for the new residents.

Loss of view and adverse impacts on the saleability of existing properties are not material planning considerations.

Noise, dust, disturbance and dirt during construction is not a material planning consideration over which the Local Planning Authority would have control.

It has been stated that there will be insufficient parking for the proposed Village Hall. At this stage only indicative layouts have been provided, as this application deals with the access only. Accordingly specific parking layouts and numbers will be dealt with in any reserved matters application.

#### **Should planning committee be minded to approve this application your officers would recommend that the following conditions be attached to the grant of permission:-**

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

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

- 2 In respect of each part of the development to be the subject of a separate reserved matters approval, that phase or part of the development as hereby permitted shall not be commenced until approval of the following details (hereinafter called "reserved matters") has been obtained from the Local Planning Authority in writing:

- a) scale
- b) appearance
- c) landscaping
- d) layout

The development shall be implemented 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. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

*Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.*

- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: - Drg Nos: - EMS. 2281-01-1, EMS. 2281-11-1 received by the Local Planning Authority on the 30.January .2012,

*Reason: For the avoidance of doubt and in the interests of proper planning.*

- 4 No development shall commence until drainage plans for the disposal or surface water, and foul sewage incorporating sustainable drainage principles have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development first being 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 in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within the National Planning Policy Framework.*

- 5 Before first use of the development hereby permitted, visibility splays of 2.4 meters by 33 meters shall be provided at the junction of the access with Main St. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 meters above ground level within the visibility splays.

*Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.*

- 6 No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- i. The programme and methodology of site investigation and recording
- ii. The programme for post investigation assessment
- iii. Provision to be made for analysis of the site investigation and recording
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- v. Provision to be made for archive deposition of the analysis and records of the site investigation
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

*Reason: To ensure satisfactory archaeological investigation and recording in accordance with paragraph 141, section 12 of the NPPF*

- 7 No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (6).

*Reason: To ensure satisfactory archaeological investigation and recording in accordance with paragraph 141, section 12 of the NPPF*

- 8 Before the first occupation of the first dwelling the site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (6) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason: To ensure satisfactory archaeological investigation and recording in accordance with paragraph 141, section 12 of the NPPF*

#### **Notes to Applicant:-**

1. The site must be thoroughly hand searched by a licensed ecologist for great crested newts and that should great crested newts be found then Natural England must be contacted.
2. 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- (telephone 0116 3052202.)

The proposal is situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.

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.

The proposed roads do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority.

The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded.



For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3056782.

If the telegraph pole requires relocation, this shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the highway authority.

In order to provide the visibility splays, it may be necessary to trim the hedge back and relocate the telegraph pole.

Your attention is drawn to the requirement contained in the Highway Authority's design document to provide Traffic Calming measures within the new development.

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

**Item:** 03

**Reference:** 12/00166/FUL

**Applicant:** Mr Frank Downes

**Location:** Land Rear Of 36 Bowling Green Road Hinckley

**Proposal:** ERECTION OF ONE NEW DWELLING

**Target Date:** 6 June 2012

#### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, at the request of a local member who considers that the application in contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

#### Application Proposal

Full planning permission is sought for the erection of a one and a half storey four bed dwelling (with accommodation within the roof space) and detached garaging.

Following concerns raised by officer's amended plans have been received showing the re-siting of the dwelling and re-consultation was undertaken.

#### The Site and Surrounding Area

College Lane is a private un-adopted road and a footpath (V9) runs to the eastern boundary along College Lane.

There are two storey detached dwellings located to the north along Bowling Green Road and a mixture of single storey detached and two storey detached dwellings along College Lane.

A residential scheme has been approved, but not implemented as part of a new residential scheme to the east at the North Warwickshire and Hinckley College Site (ref: 11/00082/REM).

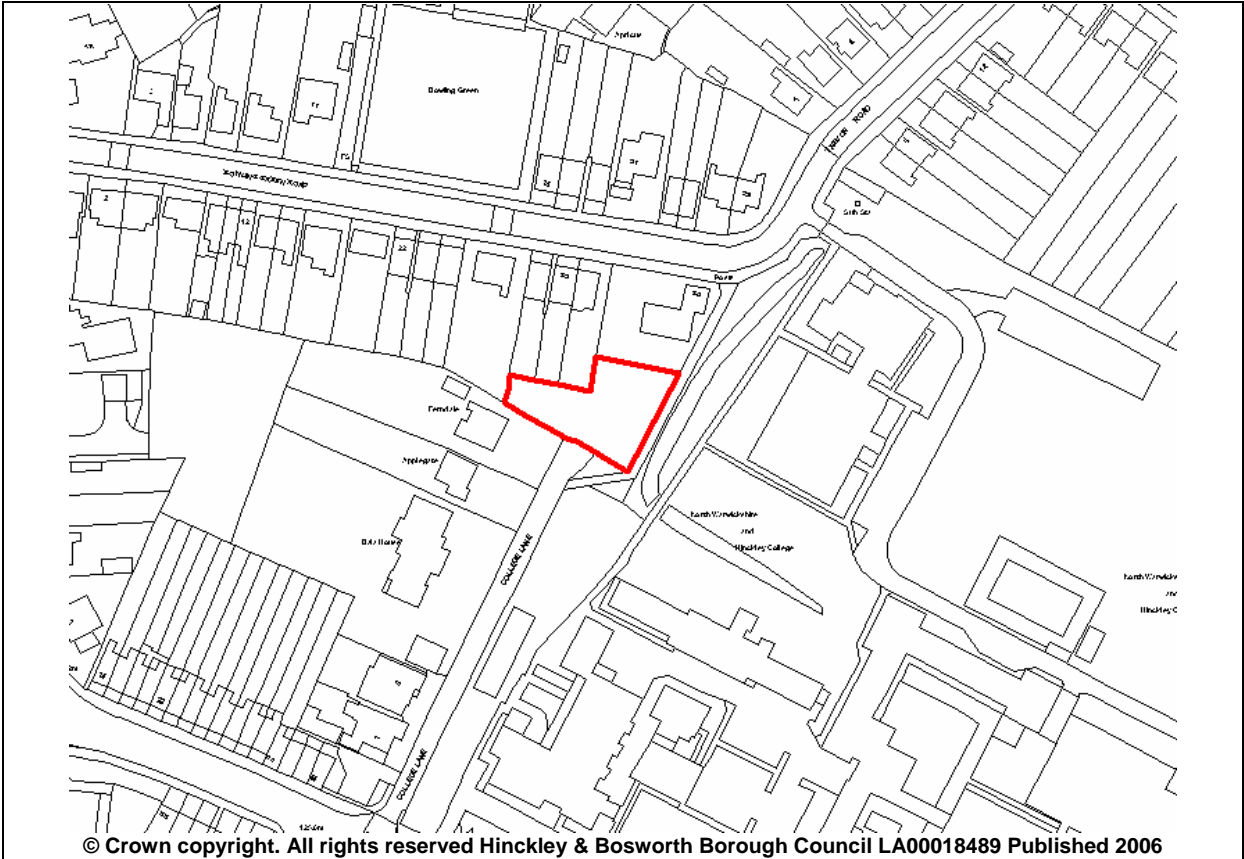
The site is located within the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement and draft unilateral undertaking.

**Relevant Planning History:-**

11/00862/FUL                      Erection of one dwelling                      Withdrawn                      02.12.11



**Consultations:-**

No objections from:-

Head of Community Services (Pollution)  
Director of Environment and Transport (Rights of Way).

No objection subject to conditions from:-

Director of Environment and Transport (Highways)  
Head of Business Development and Street Scene Services (Waste Minimisation).

Two letters (from one address) have been received raising the following concerns:-

- a) the scale, footprint and siting results in overbearing, overshadowing and visual intrusion and loss of amenity thereby having a detrimental impact

- b) the gable end contributes to the overbearing aspect of the proposal
- c) the proposed revisions do not address previous concerns – the re-positioning of the dwelling has not had any impact on the significant overbearing nature of the proposed development and the resulting loss of amenity
- d) narrow garden tends to naturally focus the view towards the bottom of the garden and the siting, scale and footprint dominates and overwhelms the outlook
- e) the dwelling is awkwardly sited and would be suitably located at the southernmost corner ensuring garden areas would be adjacent to the boundaries reducing the impact upon residential amenity and turning would still be possible
- f) two storey is not an appropriate form of backland development for the site; Ferndale at the far end of College Lane occupies a plot with similar characteristics and is a single storey dwelling
- g) single storey would resolve the issues with the habitable windows standards and ensure the dwelling was sited to the eastern boundary
- h) the access road is not of a sufficient standard to serve more than 5 dwellings and there are no proposals to upgrade the access, and no turning facilities for emergency, delivery and refuse vehicles
- i) intensification of use of the access road will particularly affect users of the public right of way, additional users as a result of the College site; compromise highway safety; these matters should be considered by Leicestershire County Council.

Councillor Nichols believes that the application is against Policy BE1 in that a two storey dwelling does not complement or enhance the character of the surrounding area with regard to scale, layout or design as it will have an overbearing effect on the semi detached house it will be in front of and that within College Lane there are two bungalows at the end nearest London Road and at the end nearest this land there is also a bungalow and therefore feels that to balance the road up and to stop the property being overbearing this too should be a bungalow and not a two storey house.

**Policy:-**

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012  
 The Community Infrastructure Levy Regulations 2010

Regional Policy Guidance: East Midlands Regional Plan 2009

Policy 2: Promoting Better Design

Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley  
 Policy 19: Green Space and Play Provision  
 Policy 24: Sustainable Design and Technology

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 IMP1: Contributions Towards the Provision of Infrastructure and facilities  
 Policy RES5: Residential Proposals on Unallocated Sites  
 Policy BE1: Design and Siting of Development  
 Policy T5: Highway Design and Vehicle Parking Standards

## Policy REC3: New Residential Development - Outdoor Play Space for Children

### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development

Supplementary Planning Document: Play and Open Space

Supplementary Planning Document: Sustainable Design

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, impact upon character, 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.

Paragraph 53 within the National Planning Policy Framework states that Local Planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

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

Local Plan Policy BE1 seeks a high standard of design to safeguard and enhance the existing environment through a criteria based policy. These criteria include ensuring the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features'. This consideration ties in with the intentions of RES5 and paragraph 53 of the NPPF for Local Authorities to prevent overdevelopment and development that is out of keeping with the character of the surrounding area.

In summary, there is no in-principle objection to residential development within the defined settlement boundary of Hinckley, subject to all other planning matters being adequately addressed.

### Impact Upon Character; Siting and Design

The consideration of the impact on character has always been a material consideration in the determination of planning applications, even before the requirements within paragraph 53 within the NPPF, came into force, through consideration of the requirements of Policy BE1. Criteria a) of Policy BE1 is consistent with the NPPF and as such should be given weight in consideration of this application. In addition, paragraph 64 within the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The immediate area is characterised by two storey dwellings to the north and single storey to the south-east, with such a varied character one and a half storey proportions with accommodation within the roof space is considered acceptable in this case.

The footprint of the proposed dwelling whilst larger than 30, 32 and 34 Bowling Green Road is similar in footprint to that of No. 36 Bowling Green Road and similar to and smaller than dwellings along College Lane and is therefore considered to be similar to surrounding residential dwellings.

In respect of levels the applicant has indicated that the levels are similar to No. 34 and there would be no requirement to 'dig down'. Nevertheless a condition to ensure that existing and proposed levels are provided is recommended.

The SPG on New Residential Development requires that new developments have adequate private amenity space and expects developers to achieve 80 square metres of private amenity space, the requirements of which are adhered to in this scheme.

There is not a common or unified design approach between the dwellings along College Lane and Bowling Green Road and therefore the design features of dormer windows and bay window does not appear out of character within this unconventional street scene.

The garage is of single width but of double depth allowing car parking for two vehicles. The scale of the garage is considered to be subservient to that of proposed dwelling. The design and proposed materials is considered to reflect that of the proposed dwelling and is therefore considered acceptable.

In summary, the proposed development accords with the general scale and proportions of existing dwellings within the vicinity, ensuring that the development appears in keeping with the scale and character of existing dwellings and the design approach is considered acceptable. As such, the scheme is considered to be in accordance with guidance contained with the NPPF, Saved Policies RES5 and BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan and with the principles outlined in the Council's SPG on New Residential Development.

#### Impact upon Residential Amenity

The residential dwellings most immediately impacted upon as a result of the proposal would be No. 34 Bowling Green Road located to the north of the application site and residential dwellings approved, but not implemented as part of a new residential scheme to the east at the North Warwickshire and Hinckley College Site (ref: 11/00082/REM).

The Council's SPD on New Residential Development states that where a window of a habitable room faces the blank wall of an adjacent dwelling the Authority will normally expect applicants to achieve a minimum distance of 12 metres for a single storey dwelling and 14 metres for a house with 2 or more storeys. Following the submission of amended plans there is a distance of approximately 20 metres between the rear wall of No. 34 and the proposed dwelling. There is one window proposed at ground floor serving a study and 1 dormer window and velux roof light proposed at first floor serving a bathroom and dressing room. The dormer window does not serve a habitable room and will be obscure glazed. As the distance exceeds that suggested by the guidance and the only first floor window serves a non-habitable room it is considered that the proposed scheme would not result in an unacceptable overbearing impact upon No. 34.

A condition is suggested to obscure glaze the window and ensure that it is top opening only.

The Council's SPD on New Residential Development also states that where a principal window of a habitable room faces a similar window the authority will seek to negotiate to achieve a distance of 25 metres, which can be relaxed with suitable screening in the case of single storey dwellings. There are two residential dwellings set to be located to the eastern elevation, plots 16 and 17 as part of the North Warwickshire and Hinckley College Site residential scheme. Plot 17 would be the most significant affected and there would be a distance of between approximately 20.5 and 23.1 metres. It is only considered that this distance is acceptable due to the public footpath and mature hedgerow which occupies the boundary between the footpath and College Site which provides screening.

Given the limited separation distances it is considered necessary to withdraw permitted development rights (secured by the imposition of a planning condition) to prevent any overshadowing, overlooking or overbearing impacts upon the adjacent dwellings from future extensions or alterations.

In response to the neighbours request that a single storey dwelling would resolve the issue with the habitable window standard, allowing the dwelling to be sited to the eastern boundary, it is not considered that any further reduction in the distance between the eastern elevation of the proposed dwelling to the proposed plots 16 and 17 would be acceptable and that as discussed above the siting as it stands is only considered acceptable due to the public footpath and mature hedgerow which occupies the boundary between the footpath and College Site which provides screening.

In summary, the proposal is considered to have no adverse impacts upon the amenity of neighbouring residents and future occupiers. As such the scheme is considered to be in accordance with Saved Policy BE1 (criteria i) of the Local Plan.

#### Highway Considerations

There is considered to be no conflict between the NPPF and Saved Policy T5 and as such Policy T5 affords weight in the determination of this application.

The scheme proposes a garage, parking and turning area. The scheme has been considered by the Director of Environment and Transport (Highways) who has no objection to the scheme.

In response to a letter of representation the Director of Environment and Transport (Highways) has confirmed that one dwelling will only generate a small amount of additional movements on College Lane and as long as parking and turning facilities are provided within the site there is no reason to suggest that pedestrian safety would be compromised.

The Director of Environment and Transport (Rights of Way) states that the footpath abuts the eastern boundary of the application site, but it should not be directly affected by the development and also states that it would be difficult to demonstrate that the additional amount of vehicular traffic likely to be generated by the proposed development would be detrimental to the safety of pedestrians using footpath V9.

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

## Other Issues

### Sustainability

Inline 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 a condition.

### Play and Open Space Contributions

The site is located within 400 metres of Queens Park (local open space). Due to the residential element of the development the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Council's SPD on Play and Open Space.

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

Within the Green Space Strategy 2005-2010, Hinckley was found to have a deficiency of both equipped open space (-1.20) and outdoor sports (-12.50) for its population when compared with the National Playing Fields Standard.

The quality of the space has been considered within the Quality and Accessibility Audit of 2005 which awarded Queens Park a low quality score of 32.4%. The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. As the scheme results in a net gain of 1 dwelling a total figure of £1,250.80 is sought; £817.80 for provision and £433.00 for maintenance.

The monies will be used to facilitate a new outdoor gym and more equipped play such as additional skate equipment including ramps.

It is considered that Hinckley has a deficit of both equipped and outdoor sports areas and Queens Park has been shown to have a quality deficit relating to facilities. The size of unit proposed would appeal to families and given the proximity of the application site to this open space it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance.

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

### Conclusion

In conclusion, the proposed dwelling would be located within the settlement boundary of Hinckley, where there is a presumption in favour of development subject to all other matters being addressed. The development would not give rise to any significant material impacts upon the visual amenity of the area, occupiers (and future occupiers) of the neighbouring dwellings or highway safety and 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.

Subject to the signing of the Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide financial contributions towards play and open space facilities, the Head of Planning shall be granted delegated powers to grant planning permission subject to the conditions below. Failure to complete the said agreement may result in the application being refused:

**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 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 amenity, residential amenity, and highway safety.

Hinckley and Bosworth Local Plan (2001):- Policies IMP1, RES5, BE1 (Criteria a and i), T5 and REC3.

Local Plan 2006-2026: Core Strategy 2009: - Policies 1, 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 development hereby permitted shall not be carried out otherwise than in complete accordance with the following details: Drawing No. M1233/5Ra; M1233/4R/a; received by the Local Planning Authority on 11 April 2012 and amended details OS Sitemap M1233/7Ra and M1233/6Rb received by the Local Planning Authority on 10 May 2012.
- 3 No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling and garage 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 hard landscape works, have first been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
  - a) means of enclosure, gates and boundary treatments
  - b) hard surfacing materials
  - c) implementation programme.

The approved hard landscaping scheme shall be carried out in accordance with the approved details.

- 5 No development shall commence until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have first 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.

- 6 No development shall commence unless and until a Code for Sustainable Homes 'Pre- Assessment' for the dwelling is carried out by a qualified code assessor, demonstrating that the residential unit hereby approved can be constructed to a minimum of Code Level 3 has been provided to the Local Planning Authority. In addition, prior to the first occupation of the residential unit hereby approved, a 'Final Certificate' demonstrating that the units have been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.
- 7 Prior to the first occupation of the dwelling hereby approved, car parking provision and turning space shall be made within the curtilage, in accordance with plan ref M1233/6Rb. The parking spaces and turning space so provided shall not be obstructed and shall thereafter permanently remain available for car parking and turning.
- 8 The window to be inserted in at first floor in the north elevation serving a bathroom shall be fitted with obscure glass and shall be top opening only and be retained this way thereafter.
- 9 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 inclusive shall not be carried out on the residential units unless planning permission for such development has first been granted by the Local Planning Authority.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.
- 4 In the interests of visual amenity, to accord with Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure the development is compatible with the character and appearance of the surrounding development, in accordance with the requirements of Policy BE1 (criteria a) of the adopted Hinckley and Bosworth Local Plan.
- 6 In the interests of sustainable development to accord with Policy 24 of the adopted Local Plan 2006-2026.
- 7 To ensure that adequate off-street parking and turning facilities are available to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property, to accord with Policy BE1 (criteria i) of the adopted Hinckley and Bosworth Local Plan.

- 9 To ensure that existing standards or privacy and visual amenity are maintained in accordance with Policy BE1 (criteria i) 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
- 6 Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet.

A public sewer crosses the development site in a southerly direction, passing across the footprint of the proposed dwelling. The applicant must reach agreement with Severn Trent on protective measures for the pipes, or a sewer diversion, prior to commencement of the development.

In the event of planning permission being granted by the Borough Council, the applicant's attention should be drawn to the proximity of footpath V9. He will be responsible for ensuring that the line of the footpath is not affected by any operations associated with the development, and that free access can be exercised safely by pedestrians at all times. In addition, the full width which is currently contained between boundary features and surfaced should be retained and not encroached upon by the development.

If it is necessary for any works to be carried out within the confines of the footpath, the County Council's consent to these should be obtained before they are commenced. The applicant should contact the Rights of Way Inspector for the area, Mr. A. Perry, who is based at the Northern Area Highways Office, Mountsorrel (Telephone No. 0116 305 0001).

Any damage that may be caused to the surface of the footpath while the development is being carried out will be the responsibility of the applicant to repair at his own expense, to the satisfaction of the Highway Authority.

It is not apparent from the plans accompanying the application that any additional structures will be erected across the route of footpath V9. The applicant should in any event be advised that the written consent of the County Council would need to be sought to the installation of any structure intended to be erected either on a temporary or permanent basis in a new location along the footpath, before it is put in place. Unless a structure has been authorised by the Council, it constitutes an unlawful obstruction of the right of way.

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

**Item:**                    **04**

**Reference:**            **12/00134/FUL**

**Applicant:**            **Mr Robert Vero**

**Location:**            **Norton House Farm Orton Lane Norton Juxta Twycross**

**Proposal:**            **ERECTION OF AGRICULTURAL GRAIN STORE**

**Target Date:**        **14 June 2012**

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is for an agricultural building of over 500 square metres.

Application Proposal

This application seeks full planning permission for the erection of an agricultural building for use as a grain store. The grain store would measure 21.336m by 24.384m and have a height to the ridge of 9 m. The proposed building would have the appearance of a modern agricultural building with pre-cast horizontal panels for the lower 2.5m of the elevation with box profile brown palstisol sheeting above. The roof would be clad with natural grey fibre cement panels. Two fixed louvered ventilation panels are proposed to one end elevation.

The Site and Surrounding Area

The application site is located within an elevated position to the south of the village of Norton Juxta Twycross. Norton House Farm is sited within the countryside and surrounded on all sides by agricultural land.

The agricultural building would be located within the north-eastern corner of the site that contains a collection of buildings that currently form Norton House Farm. The existing buildings on the site consist of a range of modern agricultural buildings, closest to the application site, with the main farm house separated by more traditional brick buildings, to the south. Immediately to the west of the site of the proposed building is a large grain store (building a) with a steep pitched roof running north to south. This has a hopper to the south elevation and is constructed of corrugated metal sheets.

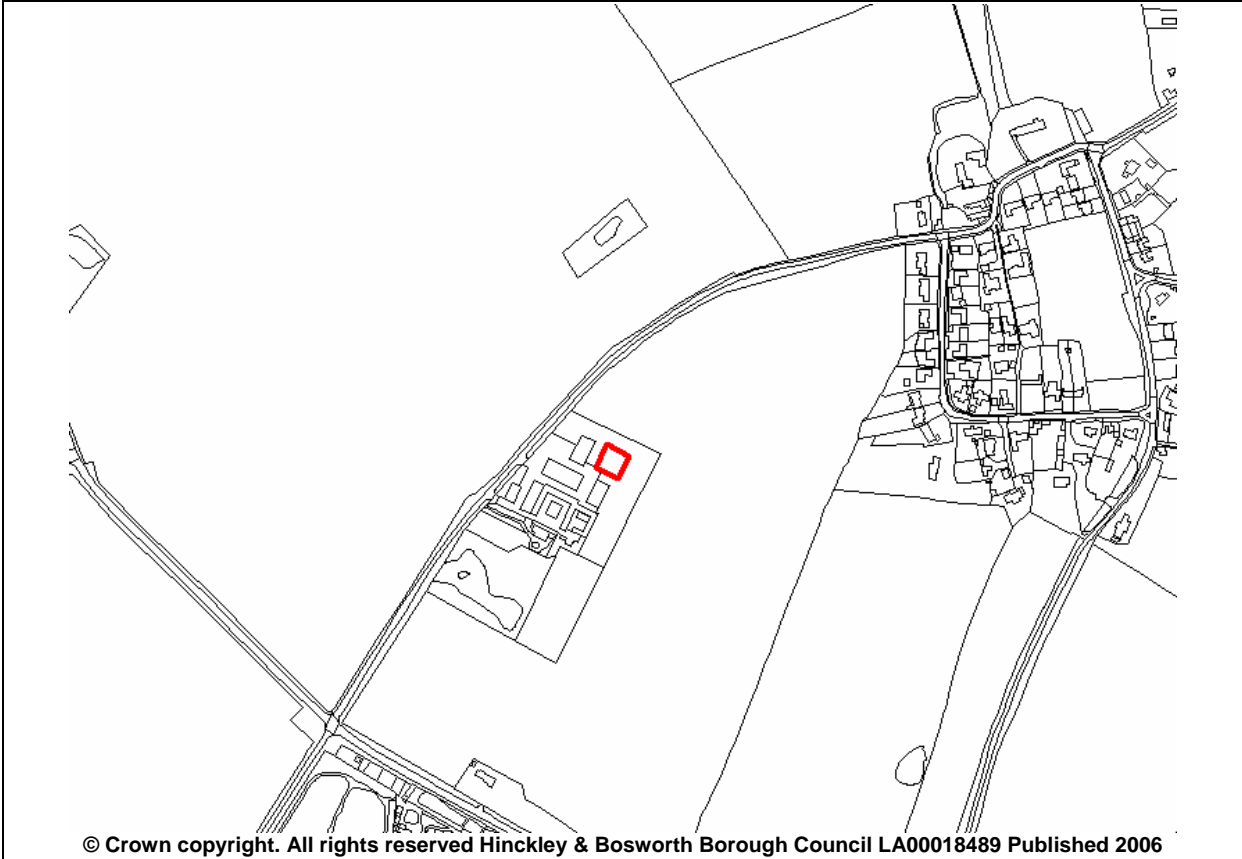
To the south of the site are buildings constructed in the 1970's (building b) these are smaller with shallow pitched roofs running east to west. Building c located to the south west is a portal framed building with concrete panels to the bottom couple of metres with profiled sheeting above. The shallow pitched roof is clad in profile sheeting.

Technical Document submitted with application

Design and Access Statement

**Relevant Planning History:-**

95/00835/GDO      Agricultural building      Approved      24.11.95



**Consultations:-**

The Head of Community Services (Land Drainage) comments that surface water should be discharged to a soakaway, a swale or natural watercourse/ ditch.

The Head of Community Services (Pollution) requested further information regarding noise form the proposed building, including the details of any equipment to be used for drying the grain including noise data and any mitigation if proposed. If any equipment is foreseen, is this in addition to similar existing equipment in other units or a new source. Upon confirmation that no new equipment is proposed the Head of Community Services confirmed he had no objection to the proposal.

Site notice and Press notice were displayed and neighbours notified.

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

Twycross Parish Council  
Neighbours.

**Policy:-**

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Regional Policy Guidance East Midlands Regional Plan 2009

None relevant.

Local Plan 2006-2026: Core Strategy 2009

None relevant.

Hinckley and Bosworth Borough Council Local Plan (2001)

BE1: Design and siting of development

NE5: Development in the countryside

Supplementary Planning Guidance/Documents

Design of Farm Buildings SPG

**Appraisal:-**

The main considerations with regards to this application are the principle of development and the design, siting and appearance.

Principle of Development

Policy NE5 restricts development within the countryside to certain uses providing these uses meet the criteria listed within the policy. The NPPF is more supportive of development within the countryside especially if it forms sustainable development. The proposal is for an agricultural building to be erected within an existing complex of buildings that forms a farmstead. Providing the building is justified for agricultural purposes, it is considered that the principle of the proposal is acceptable providing it complies with other policies contained within the plan.

Justification

The applicant has stated that they require the grain store as at present they do not have sufficient capacity within the existing buildings to store the grain farmed from the site. This results in the applicant having to sell grain early in the season which achieves a lower price than if sold later. The applicant also wishes to expand the crops grown by introducing a pea crop and to comply with the relevant regulations and for insurance purposes, the current buildings are not sufficient for this purpose. Therefore additional storage capacity is required. In addition the buildings to the south of the proposed building are reaching a point where they require structural work to enable them to continue to be used. This work requires the grain currently stored there to be stored elsewhere. It is envisaged that once these buildings are repaired they will be used to store the new pea crop.

The application is for an additional building to be sited within an existing working farm yard. The additional justification received stating why the building is required is considered acceptable. Accordingly, it is considered that the principle of the additional new building is acceptable.

### Design

Policy BE1 requires the appearance of development to compliment the character of the surrounding area. Further guidance with respect of the design of farm buildings is contained within adopted Supplementary Planning Guidance (SPG) which advises that new buildings should be designed so as to reduce their impact. This includes siting the proposal close to existing buildings, using dark colours and having regard to the design and appearance of other buildings within the complex.

The surrounding buildings are all modern agricultural buildings of a similar scale and design. Building (a) has a steeper pitched roof than the other buildings on the site. The nearest buildings to the application site are constructed out of dark coloured pre-fabricated boarding, some with concrete panels to the base. The building subject of this application proposes concrete pre-fabricated panels to the base with cladding above and a shallow pitched roof of 15 degrees. This follows the general principles of construction within the site and therefore it is considered that the design of the proposed agricultural building is acceptable.

### Siting

The SPG on Design of Farm Buildings recommends that to reduce their impact buildings be sited together. The proposed building would be sited to the top north eastern corner of the existing farmyard. The building would be sited on an area of existing paddock land with semi-mature trees along the boundary and corner of the field. The proposal would 'finish off' the square of existing buildings. Access to the proposal would be off the existing hard standing area and the building would very much form part of the group. The proposal would break the skyline when viewed from the north. However, the building would be seen next to building (a), which has a steeper pitch to the roof and is sited closer to the road. The trees along the boundary would help screen and break up the building from views from the north and east. It is considered that the siting of the proposal is acceptable and complies with Policy BE1 (a) and guidance within the SPG.

### Impact on neighbours

The proposed agricultural building would be sited at a distance of 270m from the nearest property within Norton Juxta Twycross. It is considered that at this distance the proposal would not be overbearing or result in any overshadowing.

The Head of Community Services (Pollution) has requested further information relating to the noise of any drying equipment. The applicant has confirmed that no drying equipment would be installed within the proposed building and there would be no change or new machinery brought in connection with the new building. Given this information the Head of Community Services (Pollution) has withdrawn any objections to the proposal. Accordingly it is considered that the proposal would not result in any noise and disturbance that would detrimentally affect the amenities of nearby residential properties.

### Conclusion

The proposed agricultural building is required for agricultural purposes within a complex of an existing working farm. The principle of the building is considered acceptable. The siting in the corner of the complex of buildings is considered acceptable with the building relating well to

the existing buildings on the site. The proposal is not considered to detrimentally affect the amenities of any neighbouring residential properties and therefore the proposal is considered to comply with Policy BE1, Guide to the design of Farm Buildings SPG and the NPPF.

**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 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 building being required for the purposes of agriculture, the siting, design and appearance in relation to other buildings within the site, the proposal is considered to be appropriately sited within the complex of other farm buildings and would not detrimentally affect the character or appearance of the surrounding area, nor would there be any impact on the amenities of neighbouring residents.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 and NE5.

- 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 (scale 1:1250), Block Plan (scale 1:500), received 19 April 2012 and Drawing 33427 A received 14 June 2012.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.

**Notes to Applicant:-**

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

**Contact Officer:-** Sarah Fryer Ext 5682

**Item:** 05  
**Reference:** 12/00219/OUT  
**Applicant:** Trustees Of The Powers Estate  
**Location:** Land Adj. 20 Hinckley Road Barwell  
**Proposal:** ERECTION OF 2NO. DWELLINGS (OUTLINE - ACCESS ONLY)  
**Target Date:** 15 June 2012

#### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has been called in by Councillor Gould due to the need to consider issues relating to flooding and loss of trees and the extent of local interest.

#### Application Proposal

This application seeks outline permission for two residential dwellings with approval of access being sought and all other matters reserved for future consideration.

Whilst the outline application is only seeking approval of the access, the indicative layout indicates a shared access to the south-eastern corner of the site to serve the two dwellings with retention of planting to the remainder of the frontage. The layout indicates two detached dwellings with detached garages set back beyond the rear elevations of the dwellings and driveways to the side of each property.

#### The Site and Surrounding Area

The site is a rectangular plot on the northern side of Hinckley Road, close to the junction with St Mary's Avenue. The site is unused and appears over-grown. It is approximately 50 metres deep and has a frontage of approximately 25 metres to Hinckley Road. This section of Hinckley Road is predominantly residential, comprising two storey detached and semi-detached dwellings on the northern side of the road and mix including bungalows on the southern, opposite side of the road. The site adjoins residential dwellings to its eastern and western boundaries. No. 12 Hinckley Road is a semi-detached dwelling to the east and no. 20 Hinckley Road is a detached dwelling to the west.

The front boundary of the site consists of tree and hedgerow planting. There is a bus stop located on the pedestrian footpath in front of the south-eastern section of the site. The site adjoins open countryside to the rear boundary. The land to the rear is the site of the proposed Barwell Sustainable Urban Extension (SUE). The application site forms part of the SUE site as land designated as the "Diverted Leicestershire Round" pedestrian and cycle route.

The site is in close proximity to the junction with Mill Street where there is a hollow in the vicinity of the culvert for the River Tweed.

#### Technical Documents submitted with the application

A draft Heads of Terms has been submitted for contributions for play and open space.  
Design and Access Statement



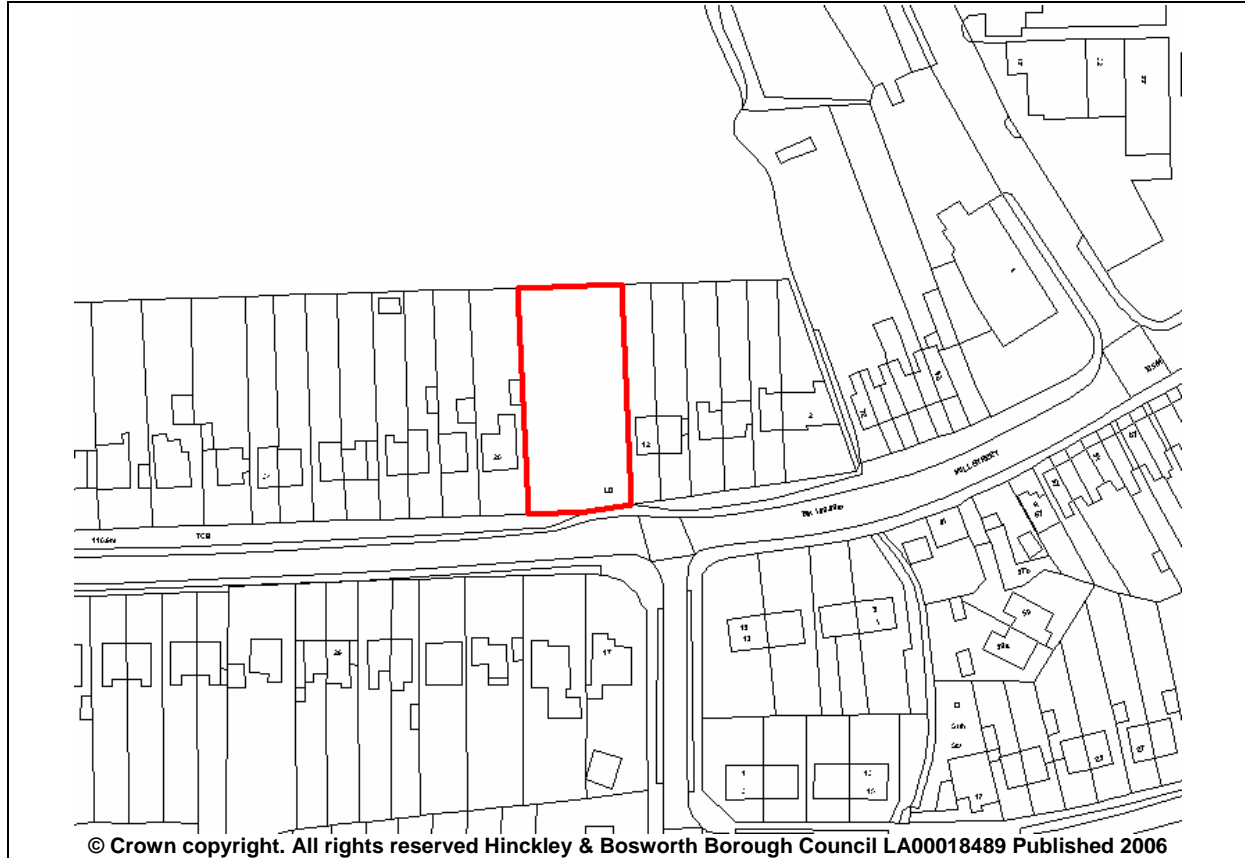
## Relevant Planning History:-

88/0915/4

Residential development  
(Outline)

Approved

23.08.88



## Consultations:-

No objection has been received from the Head of Community Services (Pollution)

No objection subject to conditions have been received from:-

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

The Director of Environment and Transport (Highways) raises no objection subject to conditions. However, he has commented that the applicant was informed at the pre-application stage that the site has been included in the red line of the Barwell SUE planning application and has been earmarked as a pedestrian/cycle access.

Objections have been received from Barwell Parish Council, raising the following concerns:-

- a) too near a busy bus stop and the junction of St. Mary's Avenue
- b) near to the River Tweed and prone to flooding
- c) planning statement is incorrect in that part of the hedge will be removed for access.

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

Neighbour notification and site notice.

## **Policy:-**

### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012  
The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122

### Regional Policy Guidance East Midlands Regional Plan 2009

None relevant.

### Local Plan 2006-2026: Core Strategy 2009

Policy 19: Green Space and Play Provision

### Hinckley and Bosworth Local Plan 2001

Policy RES5: Residential Proposals on Unallocated Sites  
Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities  
Policy BE1: Design and Siting of Development  
Policy REC3: New Residential Development - Outdoor Play Space for Children  
Policy NE14: Protection of Surface Waters and Groundwater Quality  
Policy T3: New Development and Public Transport  
Policy T5: Highway Design and Vehicle Parking Standards  
Policy T9: Facilities for Cyclists and Pedestrians

### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development  
Supplementary Planning Document: Play and Open Space

### Other Material Policy Guidance

Leicestershire County Council 6C's Design Guide

## **Appraisal:-**

The main considerations in determining this application are the principle of development, visual amenity, residential amenity, highway safety, infrastructure improvement, drainage and flooding and landscaping.

### Principle of Development

The site is situated within the settlement boundary of Barwell where there is a presumption in favour of development subject to all other planning matters being properly addressed.

Policy RES5 of the adopted Local Plan states that on sites 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. Whilst the proposals are considered to be in accordance with Policy RES5, this policy can now be given only limited weight since the publication of the NPPF which provides a presumption in favour of sustainable development.

Policy BE1 of the adopted Local Plan is considered to be consistent with the NPPF and can therefore be given significant weight. Policy BE1 seeks a high standard of design to

safeguard and enhance the existing environment through a criteria based policy. These criteria include ensuring the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features'. The character of the surrounding area is predominantly residential with a range of property styles. The proposals are considered to be in accordance with the principles of Policy BE1.

The principle of development is considered to be acceptable and in accordance with Local Plan Policies and the NPPF.

### Impact on Visual Amenity

Views of the site are obscured from the street by the existing tree and hedgerow planting to the frontage. There are two storey residential dwellings to either side of the application site and a mixture of properties opposite, including bungalows. The addition of two dwellings will be a continuation of the residential street frontage. The plot width of 25 metres is considered to be sufficient to accommodate two dwellings satisfactorily with other detached dwellings having frontages of similar widths, including the neighbouring property at no. 20 Hinckley Road that is positioned within a plot approximately 12 metres wide. The semi-detached dwellings to the east of the site are set in plots approximately 7 metres wide.

Whilst the siting, design and layout are reserved for later approval an indicative layout has been submitted. This indicates that the site can accommodate two dwellings with a continuation of the existing street frontage. The indicative position of the dwellings demonstrates that the existing building line can be continued with the two new dwellings being set back slightly from no. 20 Hinckley Road and slightly forward of no. 12 Hinckley Road. The dwellings are indicated to be set-back approximately 10 metres from the front boundary and with rear gardens that extend to approximately 30 metres. This is in keeping with the front and rear gardens of adjacent dwellings.

Whilst a section of the hedgerow will be lost to accommodate the access to these properties, this will only be for a width of 5 metres for the shared private driveway and planting to the remainder of the frontage is indicated on the layout. Landscaping is, however, a matter reserved for future consideration.

The site currently forms a break in development. However, the site is not accessible to the public and views into the site are obscured by the existing boundary trees and hedgerow. The site is therefore considered to have limited value as open space and development of the site is not considered to be contrary to Policy BE1, criteria b of the Local Plan.

### Impact on Residential Amenity

The siting of the new dwellings is a matter reserved for future consideration; however, the submitted layout shows the indicative relationship between the proposed and existing dwellings.

No. 20 Hinckley Road is set two metres from the boundary with the application site. This dwelling has a single storey extension to the rear of the property with a number of windows in the side elevation facing the application site. There is a detached garage set beyond the rear elevation and adjoining the application site. The indication is that a dwelling can be set approximately four metres from the boundary and six metres from the side elevation of no. 20 Hinckley Road. There is 1.5 metre high timber fencing along the western boundary. Given the separation distance and the existing boundary treatment, it is considered that a new dwelling can be accommodated alongside no. 20 Hinckley Road.

No. 12 Hinckley Road is a semi-detached dwelling to the east of the application site. set approximately 1.5 metres from the boundary. This property has a single storey extension to the rear that projects approximately 4.5 metres. There are no windows in the side elevation of this property facing the application site. The new dwelling is indicated as being set 1.5 metres from the boundary with no. 12 Hinckley Road and is considered to have minimal impact on residential amenity.

### Highway Safety

The application proposes access at the south-west corner of the site. This is to be 5 metres wide to a shared private driveway with parking to the frontage. In addition to the shared driveway each dwelling is to have a driveway to the side of the property with a detached garage beyond. The proposals are considered acceptable from a highway safety point of view.

The Director of Environment and Transport (highways), whilst raising no objection to the principle of the access, has advised that the applicant was informed at the pre-application stage that the application site has been included in the red-line of the Barwell SUE planning application and has been earmarked as a pedestrian/cycle access. They are keen to avoid a situation where the delivery of the SUE might be prejudiced.

The granting of planning permission does not override land ownership rights and any release of the application site for inclusion within the SUE is a private land ownership matter. Each application needs to be determined on its own merits and as such, whilst not wishing to prejudice the Barwell SUE, this application is considered acceptable on its own merits and the access is considered acceptable from a highway safety point of view. Policy BE1, criteria j of the Local Plan indicates that planning permission will be granted where "the development of the site is not prejudicial to the comprehensive development of the larger area of land of which the development forms part". Whilst Policy BE1 is considered to have a high level of consistency with the NPPF in respect of criteria a to i, criteria j is not considered to be consistent with the NPPF.

The design of the properties is a reserved matter for future consideration and the number of bedrooms is not yet known. However, the proposals will provide three parking spaces for each dwelling which is in accordance with the vehicle parking guidelines set out at Appendix D to the Hinckley and Bosworth Local Plan which indicates that three spaces are required for a dwelling with four or more bedrooms.

There is a bus stop in the front of the application site, to the east of the proposed access. The Director of Environment and Transport (Highways) is satisfied with the siting of the access in the vicinity of the bus stop.

### Infrastructure Improvement

The site is located within 400 metres of open space at Waterfall Way Recreation Ground (local open space). Due to the residential element of the development the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD.

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

Within the Green Space Strategy 2005-2010, Barwell was found to have a sufficiency of equipped play space (0.06) and sufficiency of casual/informal play space (7.24) for its population when compared with the National Playing Fields Standard.

The quality of the spaces has been considered within the Quality and Accessibility Audit of 2005 which awarded Waterfall Way Recreation Ground local open space a quality score of 25.9% against an average for Barwell of 41.1%.

The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. In this instance a contribution of £1,250.80 per dwelling is required, towards the provision and maintenance equating to a total of £2,501.60.

It is considered that, whilst Waterfall Way Recreation Ground has a slight sufficiency of equipped play space and open space, the quality of casual/informal play space is poor. The size of unit proposed would appeal to families and given the proximity of the application site to the open space it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance.

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

#### Drainage and Flooding

Concern has been expressed by the Parish Council and to the Ward Councillor that the location is near to the River Tweed and is prone to flooding. The site is near the hollow where the Tweed River crosses Mill Street in culvert and where flooding occurs on an annual basis. However, the site itself is considered to be at a high enough level to be outside of the flood zone. The area to the rear of the site is indicated for attenuation as part of the Barwell SUE. This is not considered to have any effect, beneficial or otherwise, on the drainage of the application site. The Head of Community Services (Land Drainage) has no objection to the proposals but wishes to see SUDS methods deployed. Severn Trent Water have also requested a condition be included requiring details of drainage plans for the disposal of surface water and foul sewage. A condition is recommended accordingly.

#### Landscaping

Whilst landscaping is a matter reserved for later approval, the indicative layout shows the trees and hedgerow to the front of the site as being retained and only the first 5 metres being removed to accommodate the access. These trees are not subject to a preservation order and as they are not in a conservation area they could be removed without consent. However, the submission of landscaping as a reserved matter will provide the opportunity to consider whether the planting to the front should be retained or whether replacement planting is a preferred option.

#### Other Issues

The site is within Barwell settlement boundary and Core Strategy Policy 24 requires that new dwellings in Barwell are constructed to Code 3 of the Code for Sustainable Homes. A condition is recommended to require details.

## Conclusion

The proposals are not considered to be detrimental to visual amenity, residential amenity, highway safety or flooding and provide provision for play and open space. Accordingly the development is consistent with the intentions of the NPPF and Policy BE1, criteria a to i, RES5, REC3 and T5 of the Local Plan.

**Recommendation:- That subject to receipt of an acceptable Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide financial contributions towards play and open space at Waterfall Park Recreation Ground, the Head of Planning shall be granted delegated powers to grant planning permission subject to the conditions below.**

### **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 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. The resultant development is not considered to have a detrimental impact on visual amenity or on the character of the street scene or on highway safety and is accompanied by a Unilateral Undertaking for contributions to provision of play and open space. Accordingly the development is considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 criteria a to i, RES5, REC3, T5 and NE14.

- 1 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:
  - a) the layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development
  - b) the scale of each building proposed in relation to its surroundings
  - c) the appearance of the development including the aspects of a building or place that determine the visual impression it makes
  - d) the landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details. There shall be no variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

- 2 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: OS Plan at 1:1250, Block Plan at 1:500
- 4 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is first occupied and shall thereafter

permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.

- 5 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.
- 6 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 7 No development shall commence unless and until a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the dwelling hereby approved can be constructed to a minimum of Code Level 3 has been provided to the Local Planning Authority. In addition, prior to the first occupation of the dwelling hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.

**Reasons:-**

- 1 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.
- 2 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3 For the avoidance of doubt and in the interests of proper planning.
- 4 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 5 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety in accordance with Policy T5 of the Hinckley & Bosworth Local Plan 2001.
- 6 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 in accordance with Policy NE14 of the Hinckley & Bosworth Local Plan 2001.
- 7 In the interests of sustainable development to accord with policy 24 of the adopted Local Plan 2006-2026: Core Strategy 2009.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

**Contact Officer:-** Anne Lynch Ext 5929

**Item:** 06

**Reference:** 12/00341/FUL

**Applicant:** Taylor Wimpey UK Limited

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

**Proposal:** ERECTION OF 83 DWELLINGS INCORPORATING ACCESS, PUBLIC OPEN SPACE, BALANCING POND, PUMPING STATION AND ASSOCIATED EARTHWORKS, LANDSCAPING, CAR PARKING AND OTHER ANCILLARY WORKS

**Target Date:** 3 August 2012

#### **Introduction:-**

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

Members may recall that a previous application was refused at 7 February 2012 committee on the grounds of highway safety, particularly in respect of the Nutts Lane canal bridge.

#### Application Proposal

This application seeks full planning permission for the erection of 83 dwellings including access, provision of public open space, a balancing pond, landscaping, car parking and pumping station and other ancillary works.

The 83 dwellings comprise of 21 two bedroomed units (including 6 two bedroomed flats over garages); 59 three bedroomed units and 3 four bedroomed units. 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 one car parking space per dwelling.

A pumping station and balancing pond are proposed to the south western corner of the site with 1.8 metre high timber acoustic fencing 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.

A new footbridge to the south east corner of the site is proposed and a potential footpath link to the west of the application site in accordance with planning permission ref: 11/01002/FUL.

Off site works to Nutts Lane include tactile paving for uncontrolled crossing to the south of the bridge, a new footway on the west side of Nutts Lane and additional step and ramp access from Nutts Lane to the canal towpath on the south west side of the canal bridge. A controlled pedestrian 'all red' phase at the canal bridge, with two push buttons either end of the bridge are proposed. Dropped kerbs, signage and additional white line painting are also proposed along with the trimming back or removal of the vegetation to the west of Nutts Lane.

### 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 Nutts Lane and industrial units beyond 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 heads of terms S106 agreement.

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

- Air Quality Assessment
- Arboricultural Survey
- Archaeological Desk Based Assessment
- Design and Access Statement
- Ecology Appraisal
- Flood Risk Assessment
- Landscape and Visual Appraisal
- Noise Assessment
- Planning Statement
- Statement of Community Engagement
- Transport Assessment and addendum
- Travel Plan.

### Relevant Planning History:-

An application to the west of the application site was recently approved by delegated powers:-

11/01002/FUL	Proposed new footpath link at Paddock Way	Approved	03.04.12
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The site has been subject to three outline planning applications, all which have been refused by the Borough Council. The latest full application was recommended for approval, however the officer's recommendation was overturned at 7 February planning committee:-

11/00368/FUL	Erection of 84 dwellings incorporating access, public open space, balancing pond, pumping station and associated earthworks, and scaping, car parking and other ancillary works.	Refuse (Appeal in progress)	09.02.12
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. It should be noted that this decision was based upon PPS3 which has been superseded by the National Planning Policy Framework. The issues that were considered by the Inspector were: -

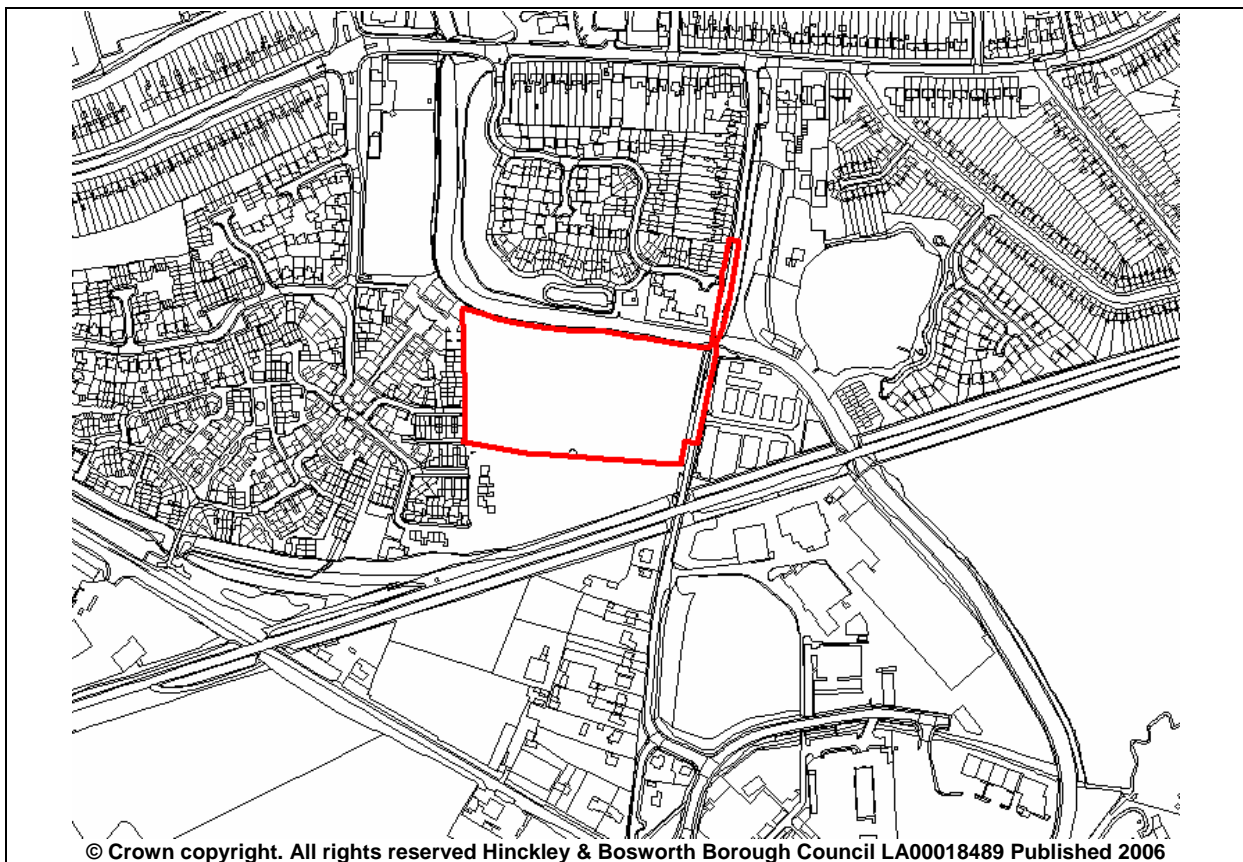
- a) whether, having regard to prevailing policy and housing land supply, there are material considerations that would be sufficient to outweigh the general presumption against development in the countryside
- b) the impact of the proposed development on the character and appearance of the surrounding 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 discussion within the appeal was as follows:-

- 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
- 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
- this development would also go against government guidance as by allowing 117 dwellings here it would discourage brownfield sites being identified elsewhere
- it fell outside the settlement boundary and the boundary cannot be altered through the appeal process

- 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 the Highways Agency.

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

Ashby Canal Association  
 Environment Agency  
 British Waterways  
 Severn Trent Water Limited  
 Director of Environment and Transport (Highways)  
 Directorate of Chief Executive (Archaeology)  
 Directorate of Chief Executive, LCC (Ecology)

Head of Community Services (Land Drainage)  
Head of Community Services (Pollution)  
Head of Business Development and Street Scene Services (Waste Minimisation).

The Inland Waterways Association wishes to minimise the impact of housing on the canal corridor and the further loss of its previously rural surroundings by limiting the height of the dwellings in proximity to the canal to 2 or 2 and half storeys and suggest therefore to replace house type A with B or D.

British Waterways raise no objection subject to conditions but state that they would have preferred to see a layout which engages more with the canal and creates greater interest architecturally. British Waterways do not object providing adequate screening is provided in the form of the retention and augmentation of the existing boundary hedge adjacent to the canal towpath.

The Leicestershire Constabulary Crime Reduction Officer requests £50, 298.00 towards policing and as there is no consideration of the necessary contribution he raises objection to the proposal.

The Cycling Touring Club (CTC) objects for the following reasons:-

- a) the canal bridge already experiences difficulties in coping with passing traffic, some of which is of a heavy nature and now it is to be shared with more
- b) minor adjustments to the bridge are proposed by the developers which are ludicrous to say the least
- c) traffic lighting problems with cyclists were raised with the County Highways Department some years ago. The canal bridge was only constructed for the odd passing car or similar
- d) an advanced stop line for cyclists could be considered
- e) the CTC find this road useful as a means of travelling from Coventry Road to the cycle way on the A5 but coping with the present heavy traffic using the bridge it becomes a hazard that is by most people one to be avoided at all costs
- f) a bridge that can cope with all types of traffic including cyclists and pedestrians is the answer.

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 £198,000.79 is sought. No contribution is being sought for high school given an overall surplus for the area and in relation to upper schools; a contribution of £124,631.54 is requested.
- b) Director of Environment and Transport (Civic Amenity) states that the development would generate additional civic amenity waste at the Barwell Civic Amenity site as such a contribution of £3,905.00 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 £5,070.00 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 £4,164.94; 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 per pass (estimated maximum 25% uptake) 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 £42,053.22 towards the provision of health care facilities at Burbage Practice, Tilton Road, Burbage including an extension to the surgery.

British Waterways requests a contribution of £45,000.00 towards towpath widening and surfacing.

The Head of Corporate and Scrutiny Services (Green Spaces) has requested £151,768.10 for the provision and maintenance of formal open space and children's equipped place space and for the maintenance only of informal children's play space (as this is being provided on site) and an additional £27,286.24 for the maintenance of the adopted landscaping areas.

Ashby Canal Association request that funding be secured to improve the towpath between the two proposed access points from the site onto the canal towpath.

Site notice and Press notice were displayed and neighbours notified.

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

- a) exhausts last green open space in a large area preventing any future provision to serve the over 1000 population in already over 500 houses in less than 80 acres
- b) within the last 12 years no comparable area of the Borough has suffered more change and upset by building on green field open land that within this area
- c) development brings no benefit to the area; it adds seriously to the population where no public social infrastructure has been provided; Providing more building but no playing field or park
- d) an intolerance was shown by the applicant to an earlier rejection of 11/00368/FUL which is an almost identical application
- e) favouring other parts of the town i.e. Leicester Road and this development would have far less negative effect
- f) the Council should approach the government to end the practice of applicants appealing on one application which was rejected whilst at the same time applying for another of such similarity as to be cynical of fair practice; An abuse of the planning system
- g) the revisions made to the proposed development will not address the previous reason for refusal, should be refused on the grounds of the impact upon pedestrian safety
- h) properties facing my home will be 3 storeys high, apart from 2 storeys in the far corner, therefore new residents will be looking directly into the homes of the residents on Canal Way, which would be un-acceptable
- i) it would be outrageous for the Canal Way residents to lose the beautiful outlook that they all enjoy and bought into
- j) it would ruin the enjoyment and relaxation for existing residents
- k) it would decrease the value and appeal of homes
- l) impact upon wildlife; it would destroy the natural environment where many different species of wildlife live
- m) objection to the pumping station and balancing pond as noise, smells and possible excessive insects this should be re-positioned away from existing properties
- n) social housing located in close proximity; social housing tenants generally do not have an interest in keeping their properties neat and tidy as they do not own them
- o) all social housing should be at the front of the development then potential purchasers will have the choice whether to buy or not.

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

- a) is it now acceptable to allow access onto Nutts Lane, when it was refused for the Canal reach development, at least access would not have been as close to the canal bridge as

is now intended, which would cause even more congestion; Access onto Nutts Lane is ludicrous; the lane is already heavily congested with today's traffic, any increased volume would be a nightmare

- b) the canal bridge is in desperate need of repair and the road is falling away on one side, which already demonstrates that this lane cannot cope with today's traffic, so more would be ridiculous
- c) the suggestions to alter the canal bridge do not sound viable – the canal bridge should be one way permanently and also put in a separate pedestrian footbridge
- d) the canal bridge could be replaced completely with one wide enough to allow two way traffic and also pedestrian access
- e) risk for the safety of pedestrians in this area
- f) traffic congestion in this area has already lowered many residents real quality of life and this taking of farm land will destroy any opportunity for the local community to fund-raise for help
- g) will a 14 second time limit be sufficient for pedestrians to cross safely before traffic begins to get agitated?
- h) all traffic destined for the industrial site to the south of the canal should be accessed from the A5 to avoid additional pressure on the 1805 canal bridge
- i) all construction traffic to the proposed development must access from the A5
- j) there is the possibility of pedestrians being in closer proximity to traffic, if they chose not to use the crossing light facility
- k) the proposed footway varies in width between 1.8 metres at the proposed tactile crossing point south of the canal bridge, then 1.5 metres on the approach to the canal bridge, 1 metre across the canal bridge and 1.2 metres to the north of the canal
- l) manual for Streets suggests an adult with one child requires a minimum footway width of 1.2 metres which is more than that proposed therefore the footway is insufficient to accommodate a parent and one child walking side by side and therefore even this scenario would require the pedestrian phase to be called and therefore cannot be a suitable safe walking route to school
- m) the footway across the canal bridge is a two way route and therefore there is the potential for pedestrians travelling in opposite directions, including those with pushchairs or wheelchair users, meeting and one having the step into the carriageway to pass if the pedestrian phase is not called causing a pedestrian safety concern and contradicts that statement that the use of the pedestrian phase would be a rare occurrence
- n) in respect of 'Inclusive Mobility' a minimum width of 2 metres is required under normal circumstances and where this cannot be provided a 1.5 metre width should be and the absolute minimum should be 1 metres and that the maximum length of this restriction should be 6 metres. There is a 17 metre stretch where the majority of the width is less than 1.5 metres and is therefore contrary to the recommendations of the DfT's guidelines
- o) as part of the pedestrian crossing facility, there should be additional traffic signal indication, including an audible signal, provided to pedestrians to show that the pedestrian phase is "active" and that vehicular traffic has been stopped
- p) the reduction in carriageway width across the canal bridge does not consider cyclist safety. Potentially cyclists could find themselves "squeezed out" of the narrowed section by larger vehicles attempting to overtake slow moving cyclists on the approach across the bridge itself and the details provided do not indicate whether the inter-green between the traffic phases is sufficient for cycles
- q) advanced stop lines for cycles on both approaches should be considered
- r) will the ramp connect to the towpath? There does not appear to be any reference to any agreement between Taylor Wimpey and British Waterways. If such a connection is proposed, the Local Planning Authority needs to be satisfied that it can and will be delivered
- s) Leicestershire County Council's previous highway comments were that the canal towpath is not considered available as a safe walking route to school

- t) planning consent has been given for a pedestrian link between the site and Waterside Park which would offer a safe walking route to school and other destination, however the link does not form part of the revised scheme and no agreement is in place between the applicant that the land owner and so therefore cannot be considered as a suitable walking to school route
- u) the analysis of the effect of the traffic and the drawn conclusions within the Travel Assessment are flawed
- v) it is suggested that there is a “complex relationship” between the operation of the Nutts Lane/Coventry Road junction and the shuttle traffic signals at the canal bridge, that “platooning” could cause and that a more sophisticated form of control of the shuttle signals will overcome this problem
- w) based on the traffic flow northwards, the shuttle signals would need to delay the northbound traffic by up to 4 minutes (by which time the queue at Coventry Road would have reduced in any event. The distance between the Coventry Road junction and the railway bridge is approximately 250 metres and therefore in order for the queue to extend back to the bridge, a further 30 vehicles or so are required to extend the queue to this distance and the platooning effect cause by queues at the canal bridge does not explain how the queue could be in excess of the 30 vehicles
- x) when any PICADY analysis indicated that a junction is at, or approaching capacity, the theoretical analysis may differ quite considerably from the actual traffic conditions experienced on the ground and therefore alternative modelling techniques need to be adopted to reflect actual conditions, which has not been done
- y) the TA states 8 vehicles but should be 9 vehicles and considers that this is not significant when compared to the background traffic flows. The potential impacts as well as the percentage increase also needs to be considered
- z) the delay figures of 1.86 minutes and 0.98 minutes per vehicles are of substantial concern
- aa) in respect of Table 4.9, we believe that the figure of 1.32 minutes per vehicle should in fact be 3.2 minutes per vehicle
- bb) even a very small increase in traffic using Nutts Lane would give rise to a disproportionately large increase in queuing delays at the Nutts Lane junction and on the basis of the analysis undertaken the queuing lengths at the Nutts Lane/Coventry Road junction will double, with delays doubling. The PICADY outputs within Appendix J of the TA indicate that the total delay over the modelled 90 minute period will amount to just over 800 minutes, or in excess of 13 hours which is totally unacceptable
- cc) within an appeal in relation to the Greyhound Stadium, the Inspector reported that an access only from Nutts Lane would add to the current congestion of the road and therefore a doubling of delays and queues amounts to a doubling of congestion which is material and is a reason for refusal
- dd) within an appeal in relation to the Greyhound Stadium, the Inspector accepted that any increase in usage of Nutts Lane in respect of cycle and pedestrian movements would be limited compared to existing use and would be restricted to pedestrians and cyclists and was on this basis that the addition of the limited section of new footway was considered to be acceptable
- ee) the development will result in an increase in vehicular traffic on Nutts Lane and particularly in the morning peak of about 18%
- ff) the number of additional pedestrians who might use the bridge on Nutts Lane amount to a total of 30 movements and thus increase is likely to be more than “limited” and the number of cyclists has not been quantified
- gg) there will be an unacceptable situation arising at the canal bridge
- hh) if the connection to the towpath is deliverable, the towpath will only make a proper contribution towards the sustainability of the site if its useable in all weathers and conditions and by all categories of pedestrians and cyclists, i.e. it needs to be lit, safe and suitable for use by people with mobility or visual considerations
- ii) a safety audit has been undertaken which raise two specific areas of concern

- jj) the designer recognised that the width of the carriageway is such that pedestrians walking within the carriageway could lead to collisions and that pedestrians are likely to choose to cross the bridge without calling the pedestrian phase with restricted visibility and vehicle speeds being a problem. Simply omitting the road studs and relying upon pedestrians having to call the pedestrian phase will not overcome the additional safety hazards created by additional traffic flows and congestion and increased pedestrian usage as, by the designers own admission any all red phase is unlikely to be called
- kk) there is no tactile paving provided to correctly inform pedestrians of the direction of travel which will be a major issue for the visually impaired
- ll) application should be refused on highway safety and the effect on the proper operation of the highway network grounds
- mm) in order to construct the footpath as little hedging and vegetation should be removed and new planting should be installed to protect residents of Whitworth Avenue and Herons Court
- nn) the hedging alongside the canal towpath must be retained with the exception of the 2 access points to the canal from the development.

One letter of support has been received stating:-

- a) the addition of the footpath on the western side of the canal and approaches is welcomed, plus the slipway access to the canal from the footpath
- b) the retention of pedestrian controlled lights to the canal crossing is welcomed
- c) welcome the facility for pedestrians to access the adjacent Waterside Park development to the west.

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

## **Policy:-**

### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012  
 The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122  
 Government Circular 06/2005: Biodiversity and Geological Conservation Statutory Obligations

### Regional Policy Guidance: East Midlands Regional Plan 2009

Policy 2: Promoting Better Design  
 Policy 13a: Regional Housing Provision  
 Policy 14: Regional Priorities for Affordable Housing

### Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley  
 Policy 15: Affordable Housing  
 Policy 16: Housing Density, Mix and Design  
 Policy 19: Green Space and Play Provision  
 Policy 24: Sustainable Design and Technology



### Local Plan 2006-2026: 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 Plan 2006-2026.

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.

### Hinckley and Bosworth Local Plan 2001

Policy NE5: Development within the Countryside

Policy REC6: Ashby Canal Corridor

Policy BE7: Development in Conservation Areas

Policy RES5: Residential Proposals on Unallocated Sites

Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities

Policy BE1: Design and Siting of Development

Policy REC2: New Residential Development – Outdoor Open Space Provision for Formal Recreation

Policy REC3: New Residential Development - Outdoor Play Space for Children

Policy NE14: Protection of Surface Waters and Groundwater Quality

Policy T3: New Development and Public Transport

Policy T5: Highway Design and Vehicle Parking Standards

Policy T9: Facilities for Cyclists and Pedestrians

Policy T11: Traffic Impact Assessment

### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development

Supplementary Planning Document: Play and Open Space

Supplementary Planning Document: Sustainable Design

Supplementary Planning Document: Affordable Housing

### Other Material Planning 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.

### **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 and Five Year Housing Land Supply

Members may recall that no objections were raised to the principle of residential development when the scheme for 84 dwellings was considered at the planning committee on 6 February 2012.

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. The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate.

Schemes within the countryside fall to be considered against Saved Policy NE5 of the Local Plan which states that the countryside will be protected for its own sake and 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. However, criteria a – c are not consistent with the NPPF and as such this policy affords only limited weight in consideration of the application.

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to

support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

Social – in this respect, developments should support 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 environment. The scheme proposes two, three and four bedroomed properties, including the provision of affordable housing, appealing to a wider spectrum with the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality. The design of the dwellings utilises materials and architectural features common to the locality. Overall the scheme would contribute towards a housing shortfall and the detailed design and incorporation of local architectural features and materials will enhance the quality, vibrancy and health of the local community.

Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The dwelling proposed will be built to the latest environmental standards and through the landscaping of the site, biodiversity will be improved.

Within the previous outline application (ref: 06/00786/OUT) the Inspector when dismissing the appeal concluded that “given 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 the publication of the NPPF housing applications should be considered in the context of the presumption in favour of sustainable development. It states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of housing. The NPPF retains the need to provide five years worth of housing against their housing requirements; it goes further than the PPS3 (now superseded) and states that there should be an additional 5% buffer and where there is a persistent under delivery of housing the buffer should be increased to 20%.

The Local Authority is currently unable to secure a five year housing land supply of deliverable and developable sites. The shortfall of dwellings has now been identified and equates to a 4 years and 9 months of supply.

As highlighted above the NPPF requires a five year supply of housing, plus either a 5% or 20% buffer. The Council's current position is of a supply of four years and nine months and therefore housing land supply policies cannot be considered to be up to date where an authority does not have a five year supply.

Whilst policies NE5 and RES5 are not supportive of residential development outside of the settlement boundary, given their policy conflict with the intentions of the NPPF little weight can be afforded to their consideration within the determination of this application. Given the presumption in favour of sustainable development and the Council's persistent lack of a five year housing land, this is considered a significant material consideration in the determination of this application. It is considered that the approval of this application would bring forward 84

units which would 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.

In summary, based on the above discussion, the development proposed is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable. 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 in conformity with the overarching intentions of the NPPF.

### 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. Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes.

As previously discussed, whilst limited weight can be given to saved Policy NE5 following the release of the NPPF due to its presumption in favour of sustainable development, the design criteria i-iv remain generally relevant to development within the countryside and are consistent with the NPPF. It states that development will have to meet the following criteria:-

- a) it does not have an adverse effect on the appearance or character of the landscape
- b) it is in keeping with the scale and character of existing buildings and the general surroundings
- c) where necessary it is effectively screened by landscaping or other methods
- d) the proposed development will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

Within the latest appeal decision (ref: 06/000786/OUT), 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, 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 countryside setting. 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 build

development and the Inspector also acknowledged that the site, even then, 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 Saved Policies BE7 and 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 Saved Policies BE7 and REC6 are considered consistent with the NPPF and as such these policies remain relevant considerations in the determination of this application.

The Inland Waterways Association raises 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 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 the intentions of the NPPF and Saved 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

Saved Policy BE1 (criteria a) of the Local Plan requires development to complement or enhance the character of the surrounding area with regard to scale, layout, mass and design. It is considered consistent with the NPPF and as such should be given weight in consideration of this application.

#### 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. 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 which 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 78-83) 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 parking 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 corner 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.

In respect of the canal side frontage plots 24-33 and 41-49 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 Ministonefold Farmhouse Red, Redland Ministonefold Breckland Brown, Redland Ministonefold Slate Grey and Redland Ministonefold 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 for consideration this can be secured by the imposition of a planning condition.

### 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, 1.2 metre high black flat top steel railing, as well as 1.8 metre long timber bench with steel frame 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.

A timber pedestrian bridge and timber bridges over the swale and towards the pumping station are proposed to match the materials proposed within the post and rail fencing.

A range of hard surfaces are proposed which provide variation within the scheme.

### Soft Landscaping

The application has been accompanied by landscape softworks and hardworks plans which detail 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 level of planting is considered appropriate to contribute to the overall 'semi rural' character of the area and will contribute to the visual amenity of the development.

In summary, it is considered that the range of flats, terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2, 2.5 and 3 storey proportions adds interest and provide strong attractive street scenes, 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 (criteria i-iv) and BE1 (criteria a) of the Local Plan and overarching intentions of the NPPF.

### Impact upon Residential Amenity

Criteria i) of Saved Policy BE1 states that planning permission will be granted where the development does not adversely affect the occupiers of neighbouring properties and is considered to have limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

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 57 and the rear elevations of No's 128 and 130 Paddock Way. There are no windows proposed in the side elevation of Plot 57 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. It should also be noted that as the proposed dwelling is located to the east of the properties on Paddock Way there would be minimal overshadowing occurring. 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 considered that there would not 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 83) 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 83 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 83 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.

This scheme also proposes conditions to secure an additional Noise Assessment of the potential noise and disturbance from the proposed pumping station on neighbouring residential occupiers and a Construction Environmental Management Plan to be submitted detailing the impact on local residents and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination and procedure for complaints if necessary.

A letter of objection has been received raising concerns over the noise, smells and possible insects as a result of the pumping station. The Head of Community Services (Pollution) has confirmed that odour and insects should be avoided by good management and that a condition is suggested (condition 10) for a Noise Impact Assessment to be provided in respect of the pumping station in addition to remediation works and implementation programme.

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 as being able 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 guidance contained within the NPPF and Saved Policy BE1 (criteria i) of the Local Plan.

### Highway Considerations

Saved Policies T5, T9 and T11 are all considered to have no or limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

### 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.

The scheme has also attracted financial contributions towards the widening and re-surfacing of the canal towpath to the north of the site.

A footpath and cycle route is provided to the south of the site, which is also intended for vehicles to gain access for future maintenance of the SUDS scheme

A new footbridge to the south east corner of the site to link to an existing footpath on Nutts Lane is proposed. There is also the potential for a footpath link to the west of the application site in accordance with planning permission ref: 11/01002/FUL.

### 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; Off Site Works

Members may recall that application ref: 11/00368/FUL was previously refused for the following reason:-

In the opinion of the Local Planning Authority the impact of the development would lead to an increase in pedestrian movements which with the lack of provision of an appropriate safe pedestrian route and crossing, together with the narrow width of the canal bridge and the lack of a proper footway across the bridge would be to the detriment of pedestrian safety. As such the proposal is contrary to Saved Policy T5 of the Hinckley and Bosworth Local Plan and to central government guidance contained within Planning Policy Guidance 13 (PPG13) Transport.

The applicant has therefore sought to overcome these highway safety issues with the addition of further off-site works along Nutts Lane and the canal bridge.

The off site works now proposed to Nutts Lane include tactile paving for uncontrolled crossing to the south of the bridge, a new footway on the west side of Nutts Lane and additional step and ramp access from Nutts Lane to the canal towpath on the south west side of the canal bridge. In addition to this, two pedestrian push buttons are proposed to the north and south of the canal bridge to introduce a controlled pedestrian 'all red' phase at the canal bridge. Dropped kerbs, and signage including the retention of the 'no footway for 20 yards' signs, and additional white line painting are also proposed along with the trimming back or removal of the vegetation to the west of Nutts Lane.

The Director of Environment and Transport (Highways) has confirmed that whilst they would normally have concerns in connection with an increase in pedestrians using a section of highway that does not benefit from a footway that complies with normal Leicestershire County Council standards in terms of its width, having regard to the speeds of vehicles on this section of 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 the absence of any personal injury accidents in the last 5 years plus the current year to date, and taking into consideration the improvements, including the proposed controlled pedestrian phase, it is not considered that it would be possible to sustain a reason for refusal on the grounds of an increase in dangers to pedestrians.

The Director of Environment and Transport (Highways) has indicated that they would not accept responsibility for future maintenance and use of the proposed steps in the public highway, this would need to be either maintained by a management company or by Hinckley and Bosworth Borough Council. The off-site highway works shown on drawing No's GA-003 Rev U and detailed above are to be required through imposition of a condition. The Highway Authority have indicated that the proposed works appear to be acceptable but that the details may alter through the Technical Approval process. Should this be the case the applicant would have to apply further to vary the condition in order that the off site highway works can be approved through the planning process.

In respect of a safe walking route to school along the Nutts Lane canal bridge, the Director of Environment and Transport (Highways) is of the view that following further information received, it would appear that the proposed improvements to the canal bridge and Nutts Lane could make the Nutts Lane route available as a Walking Route to School under the Leicestershire County Council policy.

In summary, the Director of Environment and Transport (Highways) has stated that the off site works proposed will be fully considered during the technical approval process under a Section 278 Agreement between the developer and the highway authority. However, it should be noted that any such alterations and amendments would require the associated condition to be amended and therefore the condition varied accordingly.

#### Letters of concern (Highways)

Letters of representation have been received questioning how the figure of nine 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 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 nine trips to the junction.

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. Furthermore, there are existing constraints at this junction in terms of private access junctions and public transport infrastructure in the vicinity that are such that it is unlikely that such a scheme for signalisation would be deliverable.

The Director of Environment and Transport (Highways) originally had some concerns that the introduction of a controlled all red phase could, by its nature, have an impact on queuing length/times, particularly in the p.m. peak hour. However, following further detailed investigation, works to install the control cables in connection with the pedestrian phase are not considered to be possible and, taking into consideration the volume of traffic on Nutts Lane and the likely frequency of use of the all red phase, the proposed pedestrian phase will be acceptable to the Highway Authority and should be considered as providing an improvement to the safety of pedestrians using the route over the canal bridge.

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.

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.

A letter of representation states that there is a risk for the safety of pedestrians in this area. The Director of Environment and Transport (Highways) states that on the basis of the speeds of vehicles and the absence of any personal injury accidents in the last 5 years, combined with the proposed improvements, including the controlled pedestrian phase that it is not possible to sustain a reason for refusal on the grounds of dangers to pedestrians.

In response to concerns raised about the crossing times, the scheme is set to be installed with detector devices which will be able to ascertain whether a pedestrian is still on the bridge and ensure adequate time for crossing.

Concerns have been expressed about lighting along the canal towpath. For the avoidance of doubt in respect of street lighting being implemented along the canal towpath, the Chief Executive (Ecology) stated that no lighting should shine directly at the canal or the hedgerow alongside the towpath and that a buffer zone of between 15 to 30 metres between the canal and residential units has purposely been employed so that the level of light upon the canal and hedgerows is minimal.

In respect of the canal towpath as a safe walking route to school, the Director of Environment and Transport (Highways) has stated that whilst the route from the site along to the canal

towpath between the north-west corner of the site and Coventry Road, has previously been assessed by specialist colleagues under the Leicestershire County Council Home to School Transport Policy and was found to be available as a safe walking to school route, given observations during adverse weather conditions this advice has subsequently been amended and it is considered that in its current condition it cannot be considered as an available route.

Letters have been received referring to the state of the canal bridge and that it should be replaced completely.

In respect of these concerns, 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.

A letter of representation has requested that construction traffic to the proposed development must be accessed from the A5. In the opinion of the Local Planning Authority it would be difficult to differentiate between the general traffic and the specific construction traffic, and therefore it would not be enforceable. This would not be in accordance with paragraph 71 of circular 11/95 and the same argument in respect of enforceability would apply for a Section 106 Agreement.

A letter of representation has requested that all traffic destined for the industrial site to the south of the canal should be accessed from the A5 to avoid additional pressure on the 1805 canal bridge. The Director of Environment and Transport (Highways) does not wish to restrict access to the industrial area from the northern approach using Nutts Lane over the canal bridge and requires alternative routes for traffic including HGVs should the A5 be closed.

In summary, the Highways Agency has no objection to the scheme with regards to the impact upon the A5 Trunk Road and the Director of Environment and Transport (Highways) has no objection subject to the imposition of planning conditions with regards to highway safety. It is considered that the previous objection in respect of highway safety has now been overcome with the package of works now proposed. The controlled pedestrian 'all red' phase is in addition to the creation of a proposed footway on the west side of Nutts Lane. Combined with the tactile paving and dropped kerb for uncontrolled crossing to the south of the canal bridge this ensures that pedestrians can walk from the south of the canal bridge to the north of the canal bridge either using the new footway or calling up the all red phase. 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 and overarching intentions of the NPPF.

#### Developer Contributions and Affordable Housing Provision

The application proposes 83 residential units which attracts infrastructure contributions.

The general approach to developer contributions must be considered alongside the guidance contained within 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

Policy 15 of the adopted Core Strategy is considered to be consistent with the NPPF which seeks to identify the size, type, tenure and range of housing that is required and plan housing development to reflect local needs, particularly for affordable housing. The NPPF states that Local Planning Authorities should where they have identified that affordable housing is needed, set policies for meeting this need on site. Notwithstanding the fact that affordable rent is now within the definition of affordable housing at a national level, Policy 15 is considered to remain relevant to the consideration of this application.

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 7 % 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 five for intermediate tenure.

Of the 12 social rented, four of these are three bedroomed units and eight are two bedroomed units and of the five shared ownership houses, three are three bedroomed units and two are two bedroomed units.

The latest Housing Register in Hinckley (as of 28 November 2011) stated that 584 applicants were looking for one bedroomed properties, 389 were looking for two bedroomed properties, 120 applicants were looking for three bedroomed properties and 24 were looking for properties with four bedrooms or more. 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 secured through the draft S106 agreement submitted with the application. Accordingly the scheme would meet the requirements of Policy 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 £13,515.00 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 £60,208.20 is required for the provision and £29,340.50 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 £26,792.40 for the provision and £21,912.00 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 £151,768.10

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.

It is considered that the play and open space contribution 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 £198,000.79 for the Primary School sector and £124,631.54. for the Upper School sector
- b) Director of Environment and Transport (Civic Amenity) requests £3,905.00
- c) Director of Adults and Communities (Libraries) requests £5,070.00
- d) the Primary Care Trust requests £42,053.22
- e) British Waterways requests £45,000.00
- f) Director of Environment and Transport (Highways) states that travel packs at £50.18 can be supplied by Leicestershire County Council equating to £4,164.94; 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 per pass (estimated maximum 25% uptake) and £9,348.00 for two bus shelters at the two nearest bus stops
- e) the Police Architectural Liaison Officer requests £50, 298.00 towards policing
- f) the Head of Corporate and Scrutiny Services (Green Spaces) has requested £151,768.10 for the provision and maintenance of formal open space and children's equipped place space and for the maintenance only of informal children's play space and an additional £27, 286.24 for the 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 – (£151,768.10)
- c) Education – (£322,632.33)
- d) Public Transport (Travel Packs, Bus Passes and £9,348,.00 for two bus shelters)
- e) Canal towpath improvements (£45,000.00)
- f) Landscaping maintenance (£27. 286.24)

The Police Architectural Liaison Officer's request, Public Transport and Primary Care Trust requests are being considered in light of the tests as set out in the CIL regulations and will be reported on as a late item.

The application was accompanied by a draft heads of terms which sought to secure and delivery of such contributions. A Section 106 agreement is under negotiation to secure the above mentioned financial contributions and provision of affordable housing units.

### Drainage and Flood Risk

Saved Policy NE14 is generally consistent with the NPPF and therefore remains relevant to the determination of this application.

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.

The Head of Community Services (Land Drainage) agreed in principle to the adoption of the balancing ponds and swales, subject to the adoption of the surface water pumping station by Severn Trent Water Limited.

Severn Trent Water Limited have confirmed that they would still be prepared to adopt the surface water pumping station provided it meets with their and the water industry standards and will be able to confirm upon the receipt of plans and specifications. A condition was imposed for the details of the pumping station to be submitted and Severn Trent Water Limited have endorsed this.

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 summary, the Environment Agency, Severn Trent Water Limited and the Head of Community Services (Land Drainage) 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 Saved Policy NE14 of the Local Plan and overarching intentions of the NPPF.

#### Other Issues

#### Ecology

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 much of its value as grassland habitat.

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 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; no lights should shine directly at the canal or the hedgerow alongside the towpath or the balancing pond, minimising the width of footpaths which pass through the canal side hedgerow, providing a buffer zone measuring no less than 15m in width between the proposed development, appropriate planting of margin and bankside vegetation and wide diversity of tree and shrub planting of native species.

The Directorate of Chief Executive, LCC (Ecology) has only one further comment in addition to the recommendations that the buffer strip between development and the canal is welcomed, but any planting of trees and shrubs in this strip should be of native species. This to enhance and strengthen the important wildlife corridor of the Ashby Canal, which is an important element in the ecological network of the District and of the County. Currently the landscape plan shows non-native species such as Lavender 'Hidcote', Prunus 'Otto Luyken' and Cornus stolonifera planted directly against the canal bank, which is considered unacceptable.

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.

It is considered that conditions to secure 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 should be imposed (condition 7). In addition a condition requiring planting plans, written specifications, schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate – including native species to be planted alongside the canal, a maintenance schedule, implementation programme and the details of the landscape management plans for the hedgerow to the northern boundary has also been suggested (condition 8) as well as a condition requiring details of lighting (condition 16).

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 overarching guidance contained within the NPPF.

#### Arboriculture

The application has been accompanied by an Arboricultural Survey. The Borough Council's Arboricultural Consultant's (Tree Officer) representations will be reported on as a late item.

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.

#### 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 states that 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 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 68-83 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; 68-77 in the centre of the site, whilst Phase five - the largest phase - incorporates plots 24-38 and 41-49 which front the canal and plots 38-40; 50-52; 60-67 to the mid/west of the site. Phase six is the construction of plot 83, which up until this time is intended to be used for the sales car park. Phase seven proposes the construction of plots 57-59 the last of the affordable units with phase eight completing proceedings with the construction of plots 53-56.

During the construction, sales parking is proposed to the frontage of Nutts Lane on plot 83 (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. For clarity the number of affordable units in each phase is as follows:- Phase 1: 0 units; Phase 2: 4 units; Phase 3: 0 units; Phase 4: 2 units; Phase 5: 8 units; Phase 6: 0 units; Phase 7: 3 units; Phase 8: 0 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.

### Other Material Considerations: Appeal at the former Greyhound Stadium, Nutts Lane

The appeal by Crest Nicholson Operations Ltd against the refusal of full planning permission (09/00660/FUL) for a proposed residential development of 84 dwellings, including provision of public open space, new access arrangement and associated works at the former Greyhound Stadium, Nutt's Lane, Hinckley was against 3 reasons for refusal all relating to highway safety. The Inspector gave significant weight to the lack of 5 year land supply and shortfall in affordable housing provision and considered these matters outweighed objections to protect the countryside. As such he considered the main issues were those relating to highway safety.

In considering the 3 highway issues the Inspector considered the proposed development would not have an unacceptable impact on Coventry Road; that the new crossing of the

canal was neither deliverable nor affordable and a condition could be secured to enable safe crossing of Nutts Lane; and that the internal layout and design, whilst not compliant with the LCC standards, would achieve the objective of restricting traffic to a design speed of 20 mph so that people have priority over traffic.

Overall the Inspector concluded that there is no objection to the principle of using this site for housing. In relation to the reasons for refusal, the Inspector concluded that the proposed development would not have an unacceptable impact on the highway safety of Coventry Road or Nutts Lane and that the proposed highway layout is satisfactory. For these reasons, and taking all other matters into account, the Inspector concluded that the appeal should be allowed.

Inspector's Decision: Appeal allowed (committee decision).

### Conclusion

In conclusion, the previous application was refused by planning committee on the grounds of pedestrian safety only. This application has been submitted to address this reason for refusal. Since the previous application was determined there has been a change in policy with the publication of the NPPF, however this puts in place a presumption in favour of sustainable development. For the reasons discussed above in this report the publication of the NPPF has not altered the position in respect of this application and as such the matter that needs to be considered is whether the application as now submitted overcomes the reason for refusal of the previous application.

Since the previous committee decision, the applicant has introduced further pedestrian safety measures, including the provision of a pedestrian all red phase and a footpath along the western side of Nutts Lane to seek to satisfy those concerns previously raised by residents, local groups and members. The scheme has been re-considered by the Director of Environment and Transport (Highways) who considers that the works proposed are acceptable in highway safety terms.

This development would address part of the current shortfall of dwellings 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 development would not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, flooding, protected species, designated sites would preserve character and appearance of the Ashby Canal Conservation Area and no other material impacts have been identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies.

The S106 agreement is currently under negotiation and subject to the acceptability of this, it is recommended that planning permission be granted, subject to the imposition of planning conditions.

**RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 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 Head of Planning 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 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 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. Furthermore, the proposal includes off-site highway improvement works to ensure that the development will not adversely impact upon highway and pedestrian safety.

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

Local Plan 2006-2026: Core Strategy (2009) - Policies 1, 15, 16, 19 and 24.

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

Site Location Plan Drawing No. NPA-LP-01 Rev B; Site Layout Drawing No. NPA-SL-01 Rev F; Phasing Plan Drawing No. NPA-PH-01 Rev B; Pedestrian Provision Across Canal Bridge Drawing No. GA-004 Rev F; General Arrangement Drawing No. GA-003 Rev U; Materials Layout Drawing No. NPA-ML-01 Rev A; Street Elevations sheet 1 of 2 Drawing No. NPA-SE-01 Rev A and sheet 2 of 2 Drawing No. NPA-SE-02 Rev A; Road Adoption Plan Drawing No. NPA-RAP-01 Rev B; Site Sections sheet 1 of 2 Drawing No. NPA-SC-01 Rev A and sheet 2 of 2 Drawing No. NPA-SC-02 Rev B; Adoption Plan of Swales Drawing No. NPA-RPA-03 Rev A; Adoption Plan of Canal Frontage Drawing No. NPA-RAP-02 Rev B; Landscape Softworks and Hardworks Drawing No's NPA-L-01; NPA-L-02 Rev A; NPA-L-03; NPA-L-04 Rev A; House Type A Drawing No's; HT-A-01; HT-A-02; HT-A-03; HT-A-04; House Type B Drawing No's; HT-B-01; HT-B-02; HT-B-03; HT-B-04; HT-B-05; HT-B-06; House Type D Drawing No's; HT-D-01; HT-D-02; HT-D-03; HT-D-04; HT-D-05; HT-D-06; House Type E Drawing No's; HT-E-01; HT-E-02; HT-E-03; House Type F Drawing No's; HT-F-01; HT-F-02; HT-F-03; House Type F1 Drawing No's HT-F1-01; HT-F1-02; House Type G Drawing No's; HT-G-01; HT-G-02; House Type H Drawing No's; HT-H-01; HT-H-02; HT-H-03; HT-H-04; House Type W Drawing No's; HT-W-01 Rev A; HT-W-02; House Type X Drawing No's; HT-X-01; HT-X-02; House Type Y Drawing No's; HT-Y-01; HT-Y-02; Cycle Shed Drawing No's; HT-CS-01; Single Garages Drawing No's; HT-GA-01 and Double Garages Drawing No's HT-GA-02 received by the Local Planning Authority on 20 April 2012.

- 3 Notwithstanding the submitted details, no development shall commence unless and until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with

and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

- 4 Notwithstanding the submitted plans, no development shall commence unless and until 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 No. NPA-SL-01 Revision F, 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 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 commence 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 – (native species to be planted alongside the canal)
  - 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 development, a Noise Impact Assessment for the proposed pumping station, remediation works where required 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) 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 inclusive and plot 83 until such a time as details of window specifications with sound reduction, passive acoustic ventilation to be fitted to all habitable rooms and mechanical acoustic ventilation to be fitted to all bedrooms have first been submitted to and approved in writing by the Local Planning Authority and the development shall then 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 no. NPA-SL-01 Rev F 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 No development shall commence unless and until a Code for Sustainable Homes 'Pre- Assessment' for each plot is carried out by a qualified code assessor, demonstrating that the residential units hereby approved can be constructed to a minimum of Code Level 3 has been 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 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: HT-A-01 (Plot 5); HT-B-06 (Plot 72); HT-D-01, HT-D-02, HT-D-03, HT-D-04, HT-D-05, HT-D-06 (Plots 17,18, 21, 24, 25, 26, 47, 49, 54, 55, 56, 75, 76, 77, 80); HT-E-01; HT-E-02; HT-E-03 (Plots 40, 50, 51, 52, 79); HT-F-01, HT-F-02, HT-F-03 (Plots 6, 36, 37, 71); HT-F1-01, HT-F1-02 (Plots 16 and 78); HT-G-01, HT-G-02 (Plot 53); HT-H-01, HT-H-02, HT-H-03, HT-H-04 (Plots 1, 70, 83); HT-W-01 Rev A, HT-W-02 (Plots 59); HT-X-01, HT-X-02 (Plots 60-69); HT-Y-01, HT-Y-02 (Plots 7, 10) 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 10, 11-15; 24-33; 41-49 and 53 -54.
- 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 Prior to the first occupation of any dwelling hereby approved, the off-site highway works on Nutts Lane being the provision of the access, a new footway, new crossing facilities between footways on the opposite sides of Nutts Lane, a pedestrian ramp, other footway improvements, carriageway narrowing and the provision of a pedestrian phase and additional detection loops as shown on drawing No. GA-003 Rev U shall be completed.
- 22 Before the start of the development, facilities shall be provided and maintained during the carrying out of the development to enable vehicle wheels to be washed prior to the vehicle entering the public highway. Such facilities shall be used as necessary to prevent extraneous material being carried out onto the highway.
- 23 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.
- 24 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. NPA-SL-01 Rev F.
- 25 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. NPA-SL-01 Rev F 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.

**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 (criteria a) of the adopted Hinckley and Bosworth Local Plan.
- 4&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 (criteria a) of the adopted Hinckley and Bosworth Local Plan.
- 6 To ensure that the development has a satisfactory visual appearance to accord with Policy BE1 (criteria a) of the adopted Hinckley and 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 (criteria a), BE7 and REC6 of the adopted Hinckley and Bosworth Local Plan and guidance contained within the National Planning Policy Framework.
- 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 (criteria a), BE7 and REC6 of the adopted Hinckley and Bosworth Local Plan.
- 9 In the interests of visual amenity, to accord with Policy BE1 (criteria a) 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 (criteria i) of the adopted Hinckley and 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 and Bosworth Local Plan and guidance contained within the National Planning Policy Framework.
- 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 the National Planning Policy Framework.

- 13 To protected the water environment to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within the National Planning Policy Framework.
- 14 To safeguard the amenities of surrounding residential dwellings and future occupiers of the proposed dwellings to accord with Policy BE1 (criteria i) of the adopted Hinckley and 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 (criteria h and i) of the adopted Hinckley and 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 and Bosworth Local Plan and guidance contained within the National Planning Policy Framework
- 17 In the interests of sustainable development to accord with Policy 24 of the adopted Local Plan 2006-2026: Core Strategy 2009.
- 18 To safeguard amenities of neighbouring properties to accord with Policy BE1 (criteria i) of the adopted Hinckley and Bosworth Local Plan.
- 19 To ensure that the approved dwellings do 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 (criteria a and i) and BE7 of the adopted Hinckley and 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 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.
- 22 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.
- 23 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.
- 24 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.
- 25 In the interests of pedestrian safety 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 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
- 6 There shall be no removal of or disturbance to the hedgerow along the northern boundary of the application site during the main bird breeding season (March to August inclusive).
- 7 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.
- 8 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
- 9 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).
- 10 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. Following a change in legislation that came into effect on the 6th April 2012, Leicestershire County Council as the Lead Local Flood Authority, is responsible for granting consent for works on ordinary watercourses. An ordinary watercourse by definition is a watercourse that is not a "main river" and can include streams, ditches, drains, cuts, culverts, dikes, sluices, sewers (other than those belonging to Severn Trent or Anglian Water) and passages, through which water flows. Any such structures will require consent in accordance

with s.23 (1) (b) of the Land Drainage Act 1991 as; “No person shall- erect a culvert in an ordinary watercourse without the consent of the drainage board concerned”. For further information please consult:  
[http://www.leics.gov.uk/index/environment/sustainability/approach/climate\\_change\\_resilience/flooding/watercourse.htm](http://www.leics.gov.uk/index/environment/sustainability/approach/climate_change_resilience/flooding/watercourse.htm)

- 11 The Highway Authority will not accept responsibility for future maintenance and use of the proposed steps in the public highway to the south of the canal bridge. The steps should be implemented and maintained under a licence under the Highways Act by either a management company or by Hinckley and Bosworth Borough Council. The proposed steps will need to comply with building regulations.
- 12 Whilst it would initially appear that the proposed works in the highway will be acceptable, this is subject to change through the Technical Approval process. It will only be at the Technical approval stage that greater certainty will be reached over whether all of the works will be acceptable. It is unclear whether the proposed 2.0 metres high fence within the highway to the north of the canal bridge will be acceptable. Additional details of the culvert at the point of the main vehicular access to the site will be required as part of the S278 process.
- 13 Details of the vegetation on the highway embankment to the south of the canal bridge on the development site side of Nutts Lane will need to be determined and will be restricted by what the Highway Authority will find acceptable. A suitable commuted sum may be necessary to account for future maintenance. The Highway Authority would not wish to see the gradient of the embankment increased as part of the works to provide the proposed pedestrian ramp and steps. If the embankment is proposed to be grassed then the gradient will be required to be acceptable for mowing (typically 1 in 3) and further retaining features may be necessary to achieve this.
- 14 The extent of the proposed ramp within the public highway to the south of the canal bridge that is to be dedicated as public highway will have to be determined as part of the S278 Agreement for the works within the highway.
- 15 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.

- 16 The capacity, physical condition and continuity of the receiving watercourse and its culverts downstream to its confluence with Sketchley Brook must be verified by the developer and if necessary repaired and improved prior to the commencement of site development.
- 17 The developer should consider the use of permeable paving for parking areas and paved areas not subject to highway adoption procedures.
- 18 Severn Trent Water should be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving

the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution.

- 19 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.
- 20 Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.
- 21 It is 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. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

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

**Item:** 07

**Reference:** 12/00335/FUL

**Applicant:** Mr Robert Sparks

**Location:** Caterpillar Uk Ltd Peckleton Lane Desford

**Proposal:** FORMATION OF NEW CAR PARK, INTERNAL ACCESS ROAD AND RELOCATION AND ALTERATION TO EARTH BUNDS

**Target Date:** 3 July 2012

#### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the site area is over 0.5 hectares.

#### **Application Proposal**

This application seeks full planning permission for the formation of a 250 space car park, associated internal access road and lighting within the Caterpillar (UK) Limited complex. The car park will be located on a grassed area between two existing car parks and will measure

approximately 113 metres in length and 47 metres in width. It is designed with a rectangular grid with 4.8 metres x 2.4 metres spaces and 6 metres wide aisles. It will be surfaced in bitumen with white lining defining the spaces and illumination will be provided by 13 x 8 metres high lamp posts (8 x twin lamps within the car park and 5 single lamps along the internal access road). The formation of a new internal link road will assist in traffic management and will involve the relocation of existing landscaped mounds and the replanting of sapling trees. The new car park will provide replacements for 150 spaces already within the Caterpillar complex and a net increase of 100 additional spaces.

### The Site and Surrounding Area

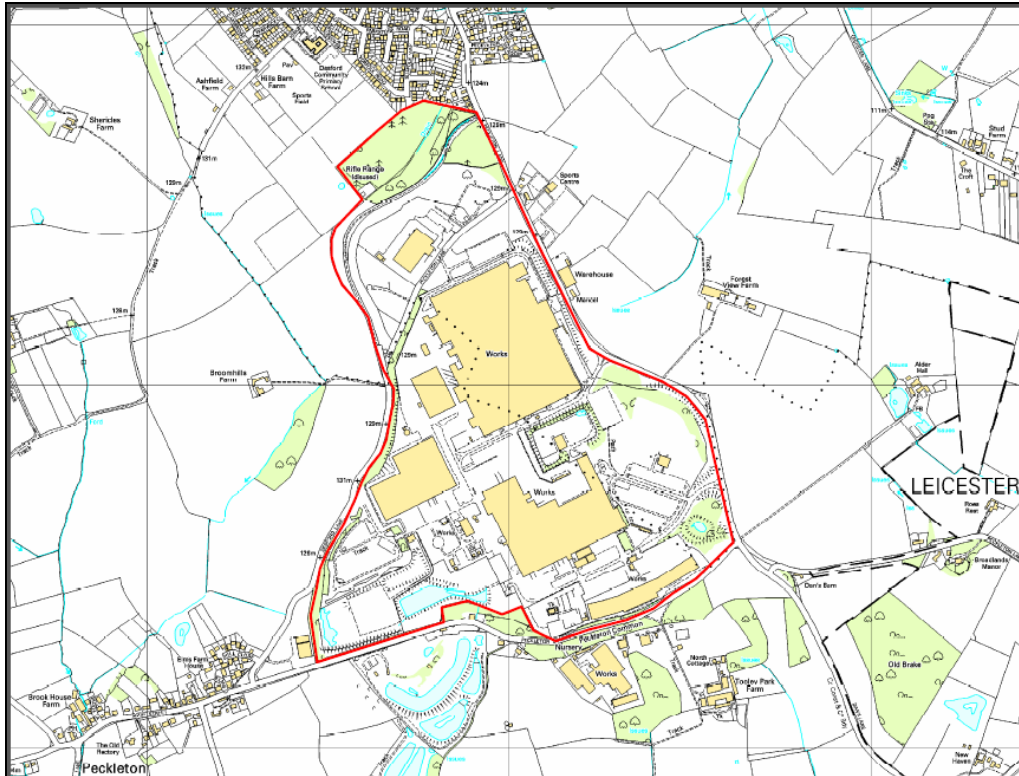
The Caterpillar complex is located in the countryside to the south of Desford and to the north east of Peckleton. It occupies approximately 106 hectares of land and comprises a number of industrial buildings of varying scales used for storage and distribution, vehicle assembly, maintenance and repair and offices along with areas of hard-standing used for testing, external storage and car parking. The part of the site to which this application relates is a grassed area with some landscaped earth bunds located between two existing car parking areas and adjacent to the sports pitches. It is screened from Peckleton Lane by landscaped bunds around the perimeter. The complex is, in the main, surrounded by agricultural fields with an unrelated industrial estate located to the south along with a number of farms and sporadic dwellings around the site.

### Technical Document submitted with Application

Planning Statement  
Design and Access Statement  
Transport Assessment Note  
Green Commuter Plan  
External Lighting Report  
Drainage Report.

### **Relevant Planning History:-**

There is an extensive planning history relating to the site including the erection of industrial buildings of varying scales and of a permanent and temporary nature and the formation of large car parking areas and landscaped bunding.



**Consultations:-**

No objections have been received from the Head of Community Services (Land Drainage).

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

- Director of Environment and Transport (Highways)
- Desford Parish Council
- Peckleton Parish Council
- Head of Community Services (Pollution)
- Site Notice
- Neighbours.

The consultation period remains open at the time of writing this report and closes on 21 June 2012. Any further consultation responses received before the committee meeting date will be reported and appraised as a late item.

**Policy:-**

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Local Plan 2006-2026: Core Strategy 2009

None relevant.

## Hinckley and Bosworth Local Plan 2001

Policy EMP1: Existing Employment Sites  
Policy EMP2: Expansion of Existing Employment Uses  
Policy BE1: Design and Siting of Development  
Policy BE26: Light Pollution  
Policy NE5: Development in the Countryside  
Policy NE13: Effects of Development on Natural Watercourses  
Policy NE14: Protection of Surface Waters and Ground Water Quality  
Policy T5: Highway Design and Vehicle Parking Standards

## Other Material Policy Guidance

The Employment Land and Premises Study 2010

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, the siting and layout of the car park and bunds and their impact on the character and appearance of the site and surrounding area and highway and transportation issues.

### Principle of Development

The National Planning Policy Framework (NPPF) provides a presumption in favour of sustainable development and supports economic growth in rural areas. Policy EMP2 supports the expansion of existing employment uses and Policy NE5 supports development in the countryside that is important to the local economy subject to a number of criteria being met. Policy BE1 requires development to complement the character of the surrounding area.

The Caterpillar complex is a long established major employment site covering a large area and operates with a shift pattern on a 24 hour basis. There are approximately 1750 employees at the site and approximately 860 car parking spaces in total. As part of the subdivision of the complex between Caterpillar Building Construction Products and Caterpillar Logistics Services, some of the existing car parking space has been re-allocated. The new car park is required to provide replacements for 150 spaces already within the overall Caterpillar complex and a net increase of 100 spaces to provide additional parking as a result of increased demand from the growth in the number of employees over the last two years. The existing 150 spaces comprise 75 spaces within an existing car park that have been reallocated and the relocation and formalisation of 75 existing informal spaces from elsewhere within the site.

The application and the supporting documentation submitted demonstrate that there is an economic need for the formation of a new car park and internal access road to provide more capacity/infrastructure for recent and planned future economic growth, to improve traffic management within the site and to improve parking facilities for staff. The proposals are sustainable development as they provide necessary ancillary infrastructure to the existing uses of the site and contribute to the economic viability of this important business. As a result the proposals are in accordance with Policies EMP1, EMP2 (criteria a and c), NE5 (criteria i and ii) and are therefore considered to be acceptable in principle subject to all other planning matters being appropriately addressed. The relocation of the internal landscaped earth bunds is also considered to be acceptable in principle as it does not result in any material loss of amenity.



### Siting, Layout, Design and Impact on the Surrounding Area

The new car park is to be located between two existing car parking areas to allow improvements to traffic management and is to be constructed on the same alignment as the main car park located to the south. The layout provides 250 spaces of standard dimensions laid out in a rectangular grid with adequate manoeuvring aisles. Lighting is provided on 13 x 8 metres high columns with downward facing lamp units to minimise glare and light spillage, similar to existing lighting in other parking areas. The relocation and alterations to the existing landscaped earth bunds will not result in any material loss of visual amenity as they are to be replanted with either existing or new saplings. As a result of the siting, layout and design of the car park and associated lighting and the existing landscaped earth bunds around the perimeter of the Caterpillar site there will be no adverse impact on the character or appearance of the site, the surrounding countryside. The proposals are therefore in accordance with Policies EMP2 (criteria a and c), NE5 (criteria i, ii, iii) BE1 (criteria a and e) and BE26 (criteria a, b and c) and are considered to be acceptable.

### Highway and Transportation Issues

Whilst the NPPF promotes sustainable transport modes it also recognises that opportunities to maximise such modes will vary from urban to rural areas. The Caterpillar complex is not well served by public transport infrastructure and its rural location further limits the transport choice options available to employees. A majority of employees therefore travel by car and the proposed 250 space car park is required at this time to mitigate changes in the internal restructuring of the site, increases in growth of the workforce over the last two years and resultant demand for car parking facilities together with potential future growth. Whilst the use of the private car is not a sustainable transport mode, Caterpillar have produced a Draft Green Commuter Plan which is being developed in consultation with Leicestershire County Council.

In order to promote more sustainable travel modes/options to the site and reduce the dependence on single car occupancy in the future the Green Commuter Plan proposes a site traffic improvement plan. This includes a website based car share scheme, the potential provision of works buses, the potential amendment to public bus routes to provide easier access to the site, potential provision of public footpath links to the site from the A47 and from Desford village, and the potential implementation of an employee drop-off zone. To raise awareness of these initiatives promotional activities will take place and information on alternative modes of travel will be displayed to all employees and included in the induction of new employees. The target of the Green Commuter Plan is to reduce the number of cars on site at peak times by 5%. In addition, in order to ensure the smooth flow of commercial traffic to and from the site a timed delivery initiative has been implemented and is intended to manage 80% of inbound traffic. Further initiatives to reduce the amount of inbound traffic have been implemented including 'Milk Rounds' which involves one vehicle picking up deliveries from a number of suppliers rather than each using their own transport. Ongoing monitoring and evaluation of all the initiatives will be undertaken to identify uptake and potential further improvements to increase the sustainability of the site in transportation terms in the future.

The proposals provide an additional 100 car spaces within the site but the associated internal link road will improve traffic management at shift turnover and therefore, overall, the proposals are unlikely to result in any adverse impact on highway safety from additional traffic movements. The consultation response from the Director of Environment and Transport has not been received at the time of writing this report and will be reported as a late item to this agenda.

## Other Issues

Due to the sites remote location, the siting of the proposed development within the site and existing screening, the proposals will not have any adverse impact on residential amenity and are therefore in accordance with Policies EMP2 (criterion b) and BE1 (criterion i) of the adopted Local Plan.

The Drainage Report confirms that surface water drainage from the new car park is intended to be discharged via linear drainage channels into soakaways subject to infiltration capability. The report also indicates that the underlying ground strata will enable an infiltration system to be used but in the unlikely event that this is not possible, disposal will be via the existing attenuation system (on site ponds) and will not impact on any watercourses outside the Caterpillar site. The proposals are therefore in accordance with Policy NE13 (criteria c) of the adopted Local Plan. A condition requiring all surface water run-off from parking and hardstanding areas to be passed through trapped gullies is considered to be reasonable and necessary in order to prevent pollution of the water environment to accord with Policy NE14 of the adopted Local Plan.

## Conclusion

The proposed car park, internal access road and earth bunds are located within an established employment site and to be used for purposes ancillary to existing uses within the site. The siting, layout and appearance complement the character of the surrounding area. The proposed car park, associated lighting and its use will not have an adverse impact on the visual amenity of the countryside, residential amenity, highway safety or surface water drainage. The proposals are therefore considered to be in accordance with adopted Local Plan Policies EMP1, EMP2 (criteria a, b and c), NE5 (criteria i, ii, iii and iv), BE1 (criteria a, c, e, g, and i), NE13 (criterion c), NE14 and T5. 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 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 adjacent to similar development, used for purposes ancillary to the existing uses and by virtue of its siting, layout and design would not have any adverse impact on the character or appearance of the site, the surrounding countryside, the amenities of the neighbouring dwellings, highway safety or surface water drainage.

Hinckley and Bosworth Local Plan (2001):- Policies EMP1, EMP2 (criteria a, b and c), NE5 (criteria i, ii, iii and iv), NE13 (criteria c), NE14, BE1 (criteria a, c, e, g, and i) and T5.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan Drg No. 9005 Rev P01; Block Plan Drg No. 9006 Rev P01; Car Park Layout Drg No. 9004 Rev P02; External Lighting Layout Drg No. 55794-01(E) 01 Rev P2;

Landscape mound Drg No. 9008 P00 and Drainage Strategy Drg No. 9/0629 001 P3 received by the Local Planning Authority on 18 May 2012.

- 3 Before the development hereby approved is first brought into use the car parking area and access road shall be surfaced in accordance with the approved plans and retained as such for those purposes at all times thereafter.
- 4 Before the development hereby approved is first brought into use works for the disposal of surface water drainage shall be carried out in accordance with the details submitted on the approved plan drawing no.9/0629 001 Rev P3.
- 5 Prior to being discharged into any watercourse, surface water attenuation or soakaway system, all surface water drainage from parking areas and hard-standings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.
- 6 No development shall commence until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority and those works shall then be carried out as approved. These details shall include:
  - a) proposed finished levels or contours
  - b) planting plans
  - c) written specifications
  - d) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - e) implementation programme.
- 7 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.

**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 satisfactory car parking provided to serve the premises when they are brought into use, to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that the development is provided with a satisfactory means of surface water drainage as well as to reduce the risk of creating or exacerbating a flooding problem to accord with Policy NE13 of the adopted Hinckley and Bosworth Local Plan.
- 5 To prevent pollution of the water environment to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan
- 6 To enhance the appearance of the development to accord with Policies EMP2 (criterion c), BE1 (criterion e) and NE5 (criterion iii) of the adopted Hinckley & Bosworth Local Plan.

- 7 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policies EMP2 (criterion c), BE1 (criterion e) and NE5 (criterion iii) of the adopted Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

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

**Contact Officer:-** Richard Wright                      Ext 5894

**Item:**                      **08**

**Reference:**              **12/00399/FUL**

**Applicant:**              **Mr John Duffield**

**Location:**              **Stanton Lane Farm Stanton Lane Stanton Under Bardon**

**Proposal:**              **ERECTION OF 2NO. WIND TURBINES**

**Target Date:**        **5 July 2012**

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, at the request of a local member as they consider that applications of this nature can be controversial.

Members should be aware that an application for 2 no. wind turbines (ref: 12/00091/FUL) was withdrawn as the applicant wished to improve the specification of the turbines to reduce noise levels.

**Application Proposal**

This application seeks full planning permission for the erection of 2 no. three bladed 11 kilowatt turbines each with a 4.5 metre blade radius and 9 metre blade swept diameter on a 15 metre (hub height) monopole, measuring a maximum of 19.5 metres to blade tip.

Two turbines are set to be located 44 metres apart upon concrete bases measuring 4 by 4 metres. The monopole masts will be dull grey with a galvanised metal finish.

The turbines are set to be connected into the local electricity distribution network via a mains feed within the Markfield Equestrian buildings. The connection is to be made by the installation of buried cable. Access to the site will be gained via the existing road network and existing track along the property.

The turbines have a predicated 25 year life span.

#### The Site and Surrounding Area

The turbine is proposed to be sited in an equestrian field used in conjunction with Markfield Equestrian Centre. The site is located to the north of an existing track and in within a minimum distance of 50 metres to footpaths R5, R6 and R100.

The nearest residential properties are located to the west along Stanton Lane (located approximately 215 metres from the south west of turbine 1) and Old Cliffe Hill Quarry located to the south. Land levels vary within the immediate vicinity but drop from the north of the turbines, and levels generally rise to the east of the turbines.

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

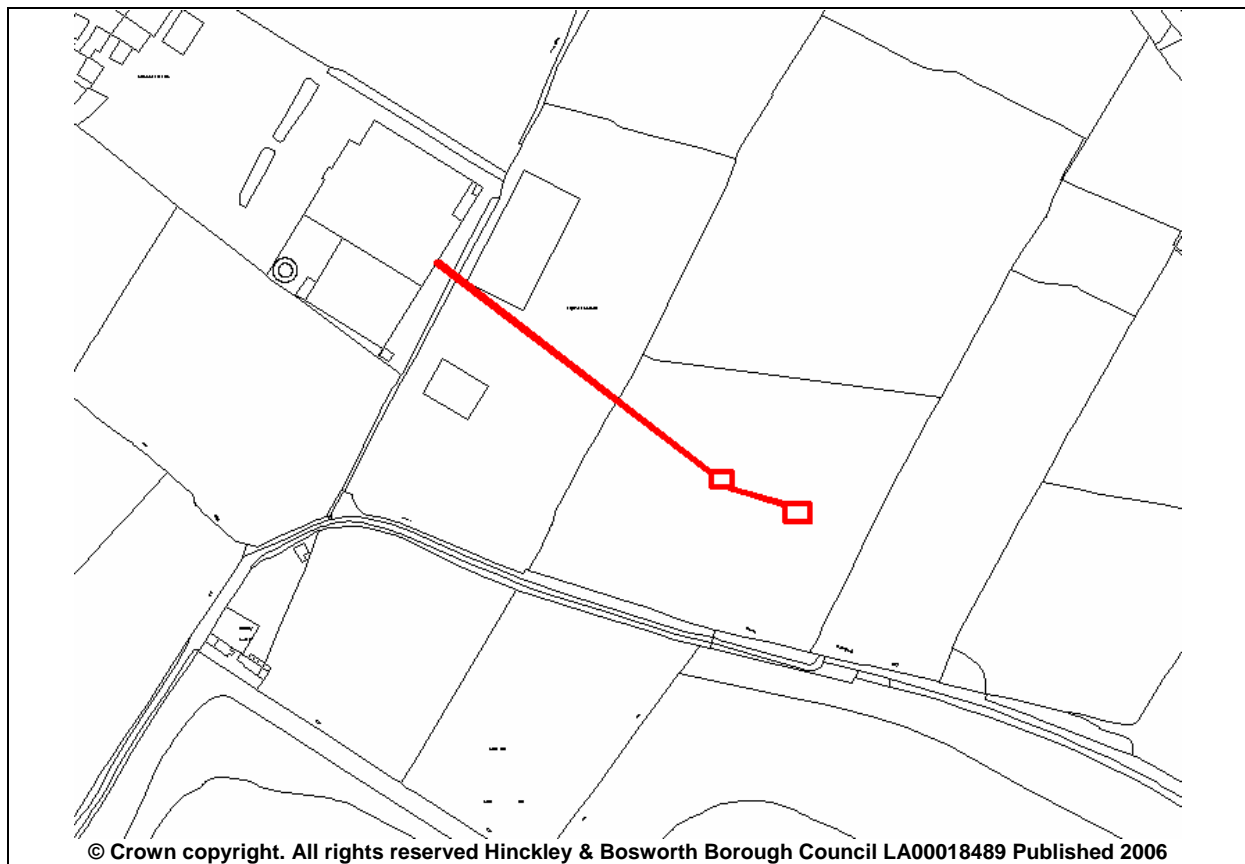
#### Technical Documents submitted with application

The application is accompanied by:-

Design and Access Statement  
Noise Report  
Photomontages.

#### **Relevant Planning History:-**

12/00091/FUL	Erection of 2 no. wind turbines	Withdrawn	10.05.12
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### Consultations:-

The Environment Agency and Health and Safety Executive (HSE) do not wish to formally comment on this application.

No objections have been received from:-

English Heritage  
Natural England  
Severn Trent Water Limited  
MOD Safeguarding  
East Midlands Airport  
Director of Chief Executive (Archaeology)  
Directorate of Chief Executive, LCC (Ecology)  
Director of Environment and Transport (Rights of Way)  
Director of Environment and Transport (Highways)  
Head of Community Services (Land Drainage).

No objection subject to conditions from:-

Head of Community Services (Pollution).

Leicestershire County Council Minerals Authority has no objection in principle to the proposed development, however states that the turbines would be located close to existing quarry operations and that the Local Planning Authority should be satisfied that quarry blasting in such proximity to the proposed turbines would neither damage the turbines and/or their foundations or potentially sterilise nationally important reserves of stone because of any necessary stand-off distances.

Cliffe Hill Quarry objects to the application as they are concerned with the impact the proposed development may have on the operation of the quarry and recommends that the applicant should undertake a full assessment of the potential impacts as part of the application process.

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

Stanton Under Bardon Parish Council  
Markfield Parish Council  
British Telecoms  
Western Power Distribution  
Police Architectural Liaison Officer  
Joint Radio Company  
RSPB  
NERL Safeguarding.

### **Policy:-**

#### National Policy Guidance

Kyoto Protocol: The UK has set targets to generate 15% of electricity from renewable energy sources by 2015 and 20% by 2020. This is in addition to cutting carbon dioxide emissions by 60% by 2050.

The National Planning Policy Framework (NPPF) March 2012

Planning for Renewable Energy: A Companion Guide to Planning Policy Statement 22 (PPS22) – whilst PPS22 was revoked by the NPPF the companion guide continues to be in force for consideration pending a review by the Department for Communities and Local Government.

#### Parsons Brinckerhoff Report March 2011

Government Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

#### Regional Policy Guidance: East Midlands Regional Plan

Policy 39: Regional Priorities for Energy Reduction and Efficiency  
Policy 40: Regional Priorities for Low Carbon Energy Generation

#### Local Plan 2006-2026: Core Strategy 2009

Core Strategy Spatial Objective 12  
Policy 8: Key Rural Centres Relating to Leicester  
Policy 21: National Forest  
Policy 22: Charnwood Forest

#### Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development  
Policy BE12: Scheduled Ancient Monument and Nationally Important Archaeological Sites  
Policy BE27: Wind Power  
Policy NE5: Development in the Countryside  
Policy NE6: Sites of Special Scientific Interest

## Policy T5: Highway Design and Vehicle Parking Standards

### Supplementary Planning Guidance/Documents

#### Supplementary Planning Document: Sustainable Design

### Other Material Policy Guidance

The Landscape Character Assessment 2006 defines the borough of Hinckley and Bosworth by a number of character areas. The application site is located within the Charnwood Fringe Character Area which is characterised as:-

- a) prominent landform which includes the highest land in the Borough. Localised steep slopes around rocky outcrops and quarries
- b) diverse land uses which relate to the varied geology. Dominated by pasture and woodland with quarries, pools and outcrops
- c) woodland cover of varying age from mature to new National Forest plantations
- d) medium to small sized field pattern interspersed with large areas of woodland cover
- e) large clustered villages with strong suburban influences
- f) distinctive local assets such as Groby pool and Billa Barra Hill
- g) good network of public footpaths
- h) distant wide views to the urban edges of Leicester and surrounding Charnwood Forest
- i) diverse range of habitats due to variable land use types
- j) strong, long established aesthetic appeal.

The strategies for the landscape are as follows:-

- a) conserve and enhance the historic core of village settlements
- b) conserve and enhance rocky outcrops and areas of semi-natural vegetation associated with disused quarries as a defining characteristic of the area
- c) preserve all remaining ridge and furrow
- d) maintain and enhance amenity features and look for future opportunities through quarry restoration schemes
- e) conserve and enhance the well wooded character of the landscape
- f) identify management opportunities within ancient woodland areas, such as coppicing and ground flora
- g) diversification, in order to promote natural regeneration and to diversify age structure, thus ensuring longevity
- h) conserve and protect pattern of hedgerow trees
- i) encourage new hedgerow tree planting
- j) promote the retention and appropriate use of characteristic building forms.

The Management Strategies Summary states that it is a particularly distinctive character area, with much popular appeal it is diverse and sometimes dramatic features result in high sensitivity.

### **Appraisal:-**

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



## Principle of Development

The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. The NPPF states that there are three dimensions to sustainable development: - economic; social; and environmental.

There is support and encouragement for sustainable development and the sensitive exploitation of renewable energy sources within the NPPF. Paragraph 97 within the NPPF states that to help increase the use and supply of renewable and low carbon energy, Local Planning Authorities (LPAs) should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It says LPA's should:-

- a) have a positive strategy to promote energy from renewable and low carbon sources
- b) design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts
- c) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources
- d) support community-led initiatives for renewable and low carbon energy, including development outside such areas being taken forwards through neighbourhood planning; and
- e) identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 98 within the NPPF states that when determining planning applications, local planning authorities should:

- a) not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) approve the application if its impacts are (or can be made) acceptable.

In addition, paragraph 28 within the NPPF states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- a) promote the development and diversification of agricultural and other land-based rural business.

More specifically, the Companion Guide to PPS22 recognises that renewable energy projects and those in particular for harnessing wind energy by wind turbines make a significant contribution to electricity supply systems in the UK. In addition, it states that the UK is particularly well placed to utilise wind power, having access to 40% of the entire European wind resource. With regards to location requirements this guide states that the successful introduction of renewables in all parts of England will involve the installation of different kinds of schemes in different contexts, from rural areas to densely populated areas.

At a regional level, Policy 40 of the East Midlands Regional Plan provides guidance and specific on-shore wind generation targets for the region to meet by 2010 and 2012 which would contribute to the overall EMRP target, of generating 20% of energy by 2020 from renewable resources.

At a local level Core Strategy Spatial Objective 12 on climate change and resource efficiency seeks to minimise the impacts of climate change by promoting the prudent use of resources through increasing the use of renewable energy technologies.

The application site lies outside of the current settlement boundary of Desford, as defined on the proposals map of the adopted Local Plan and is therefore within an area designated as countryside. Policy BE27 specifically deals with wind power and is considered to supersede any constraints of Policy NE5 in this case.

Policy BE27: Wind Power states that planning permission for wind farms and individual wind turbines will be approved where:-

- a) the Council is satisfied that the proposal is capable of supporting the generation of wind power
- b) the proposed development is sensitively located in relation to the existing landform and landscape features so that its visual impact is minimised and the proposal would not be unduly prominent in view from important viewpoints
- c) the proposal would not have a detrimental impact on surrounding properties due to noise and other forms of nuisance
- d) the structure is located a minimum distance that is equal to its own height away from any public highway or publically accessible area
- e) the proposal would not involve the erection of overhead power lines to connect it to the national grid that would have an adverse impact on the landscape of the area.

Policy BE27 is considered to have limited conflict with the NPPF and as such should be given weight in consideration of this application. This is with the exception that Paragraph 98 within the NPPF states that when determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and that where impacts can be addressed and made acceptable the development should be allowed.

The accompanying Design and Access Statement states the turbines are to be connected to the national grid to enable any surplus energy generated to be fed back providing a wider social benefit; it is estimated to produce capacity of around 53,770 kwh per year saving approximately 28 tonnes of carbon dioxide per annum.

In summary, there is specific planning policy support for the development of renewable energy projects both at national, regional and local level and it is considered that the proposed erection of two 11 kilowatt wind turbines would contribute to the overall outputs of renewable energy, whilst also bringing benefits to the existing equestrian business, consistent with national and local planning policy. Accordingly whilst there is no in-principle objection to the use of renewable, wind energy, which is a national, regional and local priority, this must be carefully balanced against all other planning matters being adequately addressed.

Impact upon the Visual Landscape (Impact upon the Countryside and the Charnwood Forest)

Despite recent appeals for wind turbines within the media, applications of this nature still need to be assessed in terms of the impacts upon landscape. It should be noted that the Norfolk Broads National Park case is in an area of outstanding natural beauty.

Notwithstanding the policy conflict between the NPPF and Policy NE5, the design criteria i-iv remain generally relevant to development within the countryside and are similar to those requirements of Saved Policy BE1. Saved Policy BE1 (criteria a) of the Local Plan requires

development to compliment or enhance the character of the surrounding area with regard to scale, layout, mass and design.

Saved Policy BE27 requires that wind turbine development is sensitively located in relation to the existing landform and landscape features so that its visual impact is minimised and the proposal would not be unduly prominent in view from important viewpoints.

The site also lies within an area identified as the National Forest and Charnwood Forest. It is considered that Policy 21 of the adopted Core Strategy is not applicable as it does not relate to increasing woodland cover, outdoor recreation, sports provision of tourism etc. Policy 22 of the adopted Core Strategy states that within the Charnwood Forest proposals will be supported that retain local character and complement the local landscape.

Policy 8 of the Core Strategy states that the council will protect open space linkages to the west of Markfield which are of importance to the context of the village as supported by Hinckley and Bosworth Landscape Character Assessment.

Paragraph 17 of the NPPF states that planning should recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 98 within the NPPF also states that when determining wind turbine planning applications, local planning authorities should approve the application if its impacts are (or can be made) acceptable.

Paragraph 5.4 within the Companion Guide PPS22 states that local planning authorities should recognise that the landscape and visual effects will only be one consideration to be taken into account in assessing planning applications, and that these must be considered alongside the wider environmental, economic and social benefits that arise from renewable energy projects.

The site does not have any national designations. At a more localised level, the Hinckley and Bosworth Character Assessment identifies the area as being the 'Charnwood Forest Character Area'. This states that the area is a strong distinctive character which is generally of high sensitivity and with limited capacity for change. As such it is considered that the site does not afford any specific protection through any national designation such as an Area of Outstanding Natural Beauty but that some areas are considered to be particularly sensitive.

The accompanying Design and Access Statement states that the openness of the landscape will help absorb the small scale turbines and will reduce the visual impact. The structures will be visible from certain viewpoints but given their location and their scale they will not have an adverse effect on the overall character of the landscape, nor will they significantly harm its quality or value. The Design and Access Statement also states that the nearby trees surrounding the field provide some screening from certain viewpoints and help detract from the prominence of the turbines and that overall the turbines would not result in an unacceptable harm to the visual amenity of the locality. In addition photomontages have been provided from viewpoints to help aid the likely landscape and visual effects of the proposal. Nine specific viewpoints have been chosen which show the landscape as proposed with the turbines.

The immediate landscape is characterised by hedge lined fields and scattered trees. The topography within the immediate vicinity also varies, the levels drop from the rear of the equestrian buildings and levels generally rise up from the west of the site, rising to the east. The east of the site is therefore higher and provides more screening. The steep rise up to the quarry would also offer screening from most viewpoints south of the proposed site. None

of the images provided suggest that the turbines would be visually prominent, due to distance, topography and existing landscape features such as trees and hedgerows.

In respect of the colour of the turbines, a dull grey reduces the contrast with the background sky and minimises reflection, grey blends in better than green, brown and black against a rural background and also the skyline. It is considered that the grey finish would reduce visibility both over mid and long range distances.

In summary, it is considered that wind turbines have to be tall structures to be effective and located away from features which could interfere with the wind speed and flow across the site, which often results in them being prominent within the landscape. As such, it is acknowledged that there would be a change and an impact upon the visual appearance of the area. However, given the overall scale of the turbines against the backdrop of existing landscape features and topography there would not be any significant detrimental impacts upon the countryside or Charnwood Forest. The design and materials of the proposed turbine are considered to be acceptable for the nature of the development and within this landscape. As such the proposal is considered to be in accordance with Saved Local Plan Policies BE27, BE1, Core Strategy Policies 8 and 22 and central government guidance contained within the Companion Guide to PPS22 and overarching intentions of the NPPF.

Further matters for consideration are the visual impact of the proposed development upon areas of designated and historical landscape.

#### Impact upon the Historical Landscape

Paragraph 48 within the Companion Guide to PPS22 states that special care will be needed if proposed sites for wind turbines should happen to be near listed buildings or conservation areas. At a local level, Saved Policy BE27 states that planning permission for wind farms and individual wind turbines will be approved where amongst other criteria the proposed development is sensitively located in relation to the existing landform and landscape features so that its visual impact is minimised and the proposal would not be unduly prominent in views from important viewpoints. Saved Policy BE12 states that planning permission will not be granted for development which would adversely affect a Scheduled Ancient Monument, this is considered to have high degree of conflict with the NPPF and as such should have little weight in the determination of this application.

There are no heritage assets which have been identified as being potentially affected as a result of the proposal.

The scheme has been considered by English Heritage who states that the application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice. On this basis English Heritage is therefore reasonably confident that there will not be a substantive adverse impact on the significance of heritage assets.

In summary, for the reasons discussed above it is considered that the scheme would not result in an unacceptable impact upon local heritage assets and the historical landscape. As such the proposal is considered to be in accordance with Saved Local Plan Policy BE27 (and Saved Local Plan Policy BE12) and central government guidance contained within the Companion Guide PPS22 and the overarching intentions of the NPPF.

#### Impact upon Designated Landscapes

The site has been previously evaluated as being of Parish Level ecological importance in the 1980's.

The scheme has been considered by the Directorate of Chief Executive, LCC (Ecology) who is pleased to see that the bases for the turbines will impact on just a small portion of the site and have been located so that there are 50 metres away from the boundary features of the site as recommended in Natural England's TIN051 document and therefore has no objection to the turbines.

The development is a relatively modest proposal, and the two turbine bases are small in plan (3.3m square). Natural England recommend siting turbines in such a way that the blade tip is never within 50m of a ecological feature that could be used by bats for foraging etc. (e.g. hedges and trees).

In addition, Natural England does not consider that this application poses any likely or significant risk to those features of the natural environment for which Natural England would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation.

In summary, given the two turbines bases are small in plan and are sited to ensure that the blades tips are not within 50 metres of an ecological feature that could be used for bats for foraging it is concluded that the turbines will not have any adverse impacts upon any sites of ecological important or protected species. Accordingly the scheme is considered to be in accordance with the overarching intentions of the NPPF.

#### Archaeology

The scheme has been considered by the Directorate of Chief Executive (Archaeology) who states that they have no concerns from an archaeological perspective and have no comments to make on the application. As such no further consideration on this matter is required.

#### Impact upon Residential Amenity

Criteria i) of Saved Policy BE1 states that planning permission will be granted where the development does not adversely affect the occupiers of neighbouring properties and is considered to have limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

#### Shadow Flicker

The potential for shadow flicker can be calculated and is addressed in the Companion Guide to PPS22. Under certain combinations of geographical position and time of day the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties. When the blades rotate the shadow flicks on and off. The effect is known as 'shadow flicker'. It only occurs inside buildings where the flicker appears through a narrow window opening. The seasonal duration of this effect can be calculated from the geometry of the machine and the latitude of the site.

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

Paragraph 76 within the Companion Guide to PPS22 states that shadow flicker can be mitigated by siting wind turbines at sufficient distance from residences likely to be affected. Flicker effects have been proven to occur only within 10 rotor diameters of a turbine. To ensure the guidance on shadow flicker contained in 'Planning for Renewable Energy: A Companion Guide to PPS22' was up-to-date, the Government commissioned consultants

Parsons Brinckerhoff – following a competitive tender – to carry out a research project to update its evidence base on shadow flicker. The report was published in March 2011 and concluded there are not extensive issues with shadow flicker in the UK. The report found the current government guidance on shadow flicker, which states impacts only occur within 130 degrees either side of north from a turbine, is acceptable. It also found it is widely accepted across Europe that potential shadow flicker is very low more than 10 rotor diameters from a turbine.

The turbines have 9 diameter blades and therefore the potential shadow flicker effect could be felt up to 90 metres from the turbine. The nearest residential properties are located between 215 and 250 metres away and as such the turbines are well in excess of the recommendations and the potential for shadow flicker is very low.

The NPPF states that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable, and for the reasons stated above it is considered that there are no significant impacts as a result of the shadow flicker.

In summary, it is considered that the provisions of Saved Policy BE27 and requirements within the Companion Guide to PSS22 are satisfied in this respect.

### Noise

Saved Policy BE27 states that planning permission for wind turbines and individual wind turbines will be approved where the proposal would not have a detrimental impact on surrounding properties due to noise and other forms of nuisance.

Paragraph 41 within the companion guide to PPS22 states that noise levels from turbines are generally low, and under most operating conditions, it is likely that turbine noise would be completely masked by wind-generated background noise. In respect of low frequency noise (infrasound) paragraph 45 within the companion guide to PSS22 states that there is no evidence that transmitted low frequency from wind turbines is at a sufficient level to be harmful to human health.

The application has been accompanied by a Noise Impact Assessment which has been considered by the Head of Community Services (Pollution) who does not feel that the development is likely to cause significant noise and recommends conditions to ensure that noise readings shall not be exceeded and requests schemes to be submitted should there be any complainants or breaches.

The NPPF states that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable and for the reasons stated above it is considered that there are no significant impacts in respect of a noise, however a condition is recommended to be imposed should issues arise.

In summary, it is considered that the provisions of Saved Policy BE27 are considered to be satisfied in this respect. Appropriate conditions should be imposed in accordance with ETSU-R-97 in relation to noise to protect the amenity of residential properties in the area. As such the proposal is considered to be in accordance with Saved Policy BE27 and central government guidance contained within the NPPF and the Companion Guide PPS22.

## Other Issues

### Highway Considerations: Access and Distractions

Saved Policy T5 is considered to have no or limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

Paragraph 54 within the companion guide to PPS22 states that drivers are faced with a number of varied and competing distractions during any normal journey, including advertising hoardings, which are deliberately designed to attract attentions and that at all time drivers are required to take reasonable care to ensure their own and other's safety. The guide therefore states that wind turbines should therefore not be treated any differently from other distractions a driver must face and should not be considered particularly hazardous.

It is considered that by virtue of the scale of the turbines and the distance to the nearest road that there would not be a distraction to road users.

The scheme has been considered by the Director of Environment and Transport (Highways) who raises no objection to the turbines of highway safety grounds.

In summary, it is considered that the provisions of Saved Policy T5 are satisfied in this respect.

### Public Rights of Way

As stated within paragraph 57 of the companion guide to PPS22 there is no statutory separation between a wind turbine and a public right of way, although often 'fall over' distance is considered an acceptable separation.

The nearest public footpaths are 50 metres south and 50 metres east of Turbine 2 and the fall over distance is 19.5 metres.

Turbine 1 is approximately 150 metres from the bridleway, and paragraph 56 of the companion guide to PPS22 states that whilst a 200 metre exclusion zone could be deemed desirable (as suggested by the British Horse Society following internal consultations) that it is not a statutory requirement.

In addition, the scheme has been considered by Director of Environment and Transport (Rights of Way) who states that footpaths R5, R6 and R100 are situated outside the fall over distance for each of the turbines and is satisfied that users would not be adversely affected by the proposed turbines.

In summary, it is considered that the provisions of Saved Policies BE27 and T5 are satisfied in this respect.

### Safety and Health Risks

The guidance contained at a national level within the companion guide to PPS22 does not indicate that there are any significant safety or health risks as a result of wind turbines and on this basis it is considered that there would be minimal risks to the health and safety of neighbouring residents, properties and animals.

## Aviation

East Midlands Airport has examined the scheme from an aerodrome safeguarding aspect and consider it does not conflict with safeguarding criteria and therefore have no objection to the proposals, subject to a condition being imposed which requires the applicant to notify the Local Planning Authority in consultation with East Midlands Airport within 1 month, of the turbine commencing operation. In addition, the Ministry of Defence raises no objection.

## Cliffe Hill Quarry

Concerns have been expressed by Cliffe Hill Quarry which have been considered by the Head of Community Services (Pollution) who has confirmed that the existing planning conditions for the quarry protect the existing houses in the area from significant impact. Any blasting in the vicinity will be designed to limit impact on adjacent houses. The Head of Community Services (Pollution) feel that the turbines would receive similar protection even though they are not protected through condition and that other than structural impact it is unlikely that any other impacts could occur.

## Conclusion

In conclusion, the NPPF clearly states that the purpose of planning is to help achieve sustainable development and that development that is sustainable should go ahead without delay – a presumption in favour of sustainable development should be the basis of every decision.

There is specific planning policy support for renewable energy projects both at national, regional and local level. It is considered that the wind turbines would contribute towards offsetting the carbon emissions of their agricultural operations at the farm itself, whilst also contributing to the overall outputs of renewable energy targets for the East Midlands Region. It is however considered that these positive benefits of renewable energy of the proposed development must be carefully balanced against the harmful impacts.

The scheme has been assessed from its landscape and visual impacts, impacts upon areas of historical and designated landscapes, impact upon residential amenity in relation to noise and shadow flicker and other associated impacts including highway and public rights of way considerations, safety and aviation. The scheme is not considered to cause any significant impacts in respect of these considerations and there are no other material impacts identified, that would indicate that the proposal is not in compliance with local development plan policies and overarching government guidance.

As such the proposal is considered to be in accordance with Saved Local Plan Policy BE27 and central government guidance contained with the NPPF and the Companion Guide PPS22.

Accordingly the application is recommended for approval, subject to the imposition of planning conditions.

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

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below 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 constitutes a renewable energy project that contributes towards the regional renewable energy targets for the East Midlands Region, it would not be detrimental to the visual landscape, to sites of historical or scientific importance, to species of ecological conservation or to the detriment of residential amenity or highway safety.

It is considered that the proposed development of two a 11 kw wind turbines in this countryside location addresses all of the key issues raised in the Companion Guide to PPS22 in regard to operation and maintenance, noise, landscape and visual impact, ecology, shadow flicker, safety and aviation. It will result in a form of development that will allow the applicant to reduce the carbon emissions of their equestrian operations, to produce electricity from a clean and sustainable source for the applicant and their equestrian operations and will contribute towards the supply of electricity into the National Grid.

Hinckley and Bosworth Local Plan (2001):-Policies BE1 (criteria a and i), BE12, BE27, NE2, NE5 (criteria i-iv), NE6 and T5.

Local Plan 2006-2026: Core Strategy (2009):- Spatial Objective 12, Policies 8 and 22.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Written confirmation of the date of the first export of electricity to the grid from the wind farm hereby permitted shall be provided to the local planning authority within one month of the date of this taking place.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the following details: OS Site map and overalls/planning drawing no. CF11 received by the Local Planning Authority on 10 May 2012.
- 3 No development hereby permitted shall commence until full details of the colour and finish of the turbines have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4 Prior to the first export of electricity to the grid a complaints procedure detailing the works to be undertaken by the operator in the event of a complaint being received to the operator or Local Planning Authority, shall be submitted to and agreed by the Local Planning Authority and the procedure shall be carried out by the operator in accordance with those details.
- 5 The planning permission hereby granted is for a period from the date of this decision until the date occurring 25 years after the date of the first export of electricity to the grid from the wind turbines hereby permitted, after which time use shall cease and the turbines, control house, transformer compound and turbine laydown area shall be removed from the site in accordance with Condition 9.
- 6 If either of the wind turbines hereby permitted cease to operate for a continuous period of 6 months then a scheme including details of:
  - a) decommissioning and works for the removal of the wind turbine
  - b) decommissioning and works for the removal of all other ancillary equipment and structures
  - c) works for the restoration of the site
  - d) shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the end of the 6 month cessation period. The scheme shall be

implemented within 12 months of the date of its approval by the Local Planning Authority.

- 7 Not less than one year prior to the expiry of this planning permission in accordance with condition 7 a Decommissioning Method Statement shall be submitted for the written approval of the Local Planning Authority. This shall include details of all site decommissioning works, including how the turbines and ancillary equipment would be dismantled and removed from the site, the depth to which the turbine foundations shall be removed below ground level, along with details of site restoration and a timetable of works. The Decommissioning Method Statement shall be carried out as approved.
- 8 At 25m from the turbines the sound emissions from the turbines shall not exceed 52.3dB(A) at a wind speed of 8 m/s.
- 9 All cables within the development site between turbines and from the turbines to buildings shall be set underground.
- 10 The blades of both wind turbines shall rotate in the same direction.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure that a record can be kept of all operational turbines to aid in the assessment of cumulative impact in the interests of air safety.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 In the interests of visual amenity in accordance with Policies NE5 (criteria i-iv) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan.
- 4 To ensure a complaints procedure is in place should complaints arise to protect the amenity of residents in accordance with Policies BE1 (criteria i) of the Hinckley and Bosworth Local Plan.
- 5 The planning application has only been made for a 'life span' of 25 operational years to prevent unnecessary clutter in accordance with Policy BE1 (criteria a) of the Hinckley and Bosworth Local Plan.
- 6 In the interests of visual amenity in accordance with Policies BE1 (criteria a) and NE5 (criteria i-iv) of the Hinckley and Bosworth Local Plan.
- 7 The planning application has only been made for a 'life span' of 25 operational years to prevent unnecessary clutter in accordance with Policy BE1 (criteria a) of the Hinckley and Bosworth Local Plan.
- 8 To protect the amenity of residents in accordance with Policy BE1 (criteria i) of the Hinckley and Bosworth Local Plan.
- 9 In the interests of visual amenity in accordance with Policies BE1 (criteria a) and NE5 (criteria i-iv) of the Hinckley and Bosworth Local Plan.
- 10 In the interests of visual amenity in accordance with Policies NE5 (criteria i-iv) and BE1 (criteria a and i) of the Hinckley and Bosworth Local Plan.

### **Notes to Applicant:-**

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

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

**Item:** 09

**Reference:** 12/00229/FUL

**Applicant:** Mr Andrew Churchill

**Location:** Station Yard 8 Station Road Market Bosworth

**Proposal:** ERECTION OF PORTAL FRAMED UNIT

**Target Date:** 14 August 2012

### **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 a new self contained factory unit and associated ground works to provide level hard standing for improved vehicle movements and minor external storage, together with the demolition of an adjacent factory unit and the formation of new car parking areas. The proposal includes the erection of a steel frame portal building clad in silver and blue trimmed profiled metal sheet cladding to match the existing building and light grey metal sheet cladding on the roof. There are two loading doors (measuring 4 metres x 4 metres) and two pedestrian doors on the front elevation and two pedestrian doors on the rear elevation. The proposed building will cover approximately 1290 square metres and have an eaves height of approximately 5.5 metres and a ridge height of approximately 7.3 metres and is to be used for the production and manufacture of precision engineered metal products. The proposed ground works include the levelling of areas of the site including removal of earthworks, banks and retaining walls associated with the former railway sidings to create a new 4 metres wide internal access road, a new bunded concrete yard area to the rear of the new building and a new HGV turning area to the rear of

the existing building. The building to be demolished to create a new car parking area lies to the east of the main factory unit and provides approximately 490 square metres of floor space.

The Site and Surrounding Area

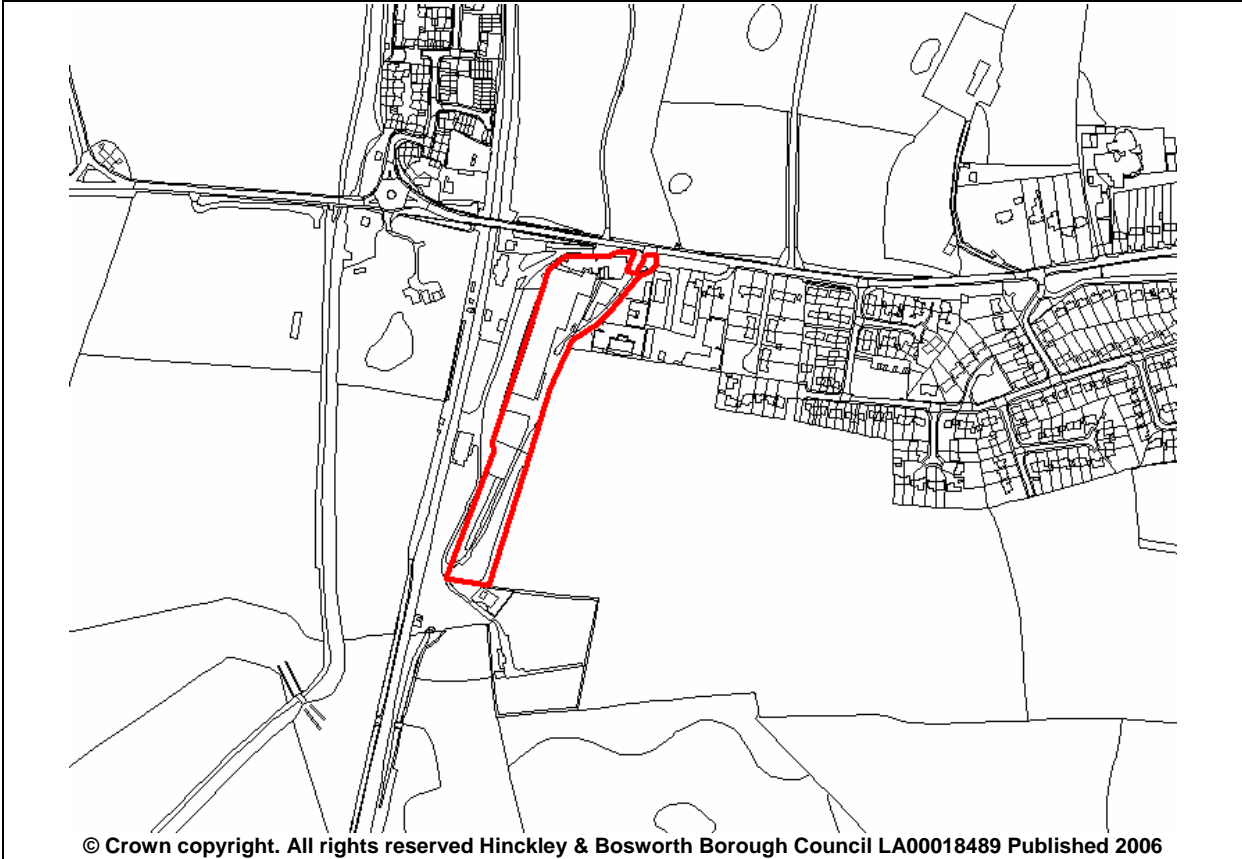
The application site measures approximately 1.53 hectares, is located on the western edge of Market Bosworth and falls part within and part outside the Station Road Industrial Estate and the settlement boundary of Market Bosworth. The existing production building and associated offices lie towards the front of the site with open yard storage and parking areas to the rear and external storage areas containing the remains of former railway sidings towards the rear of the site. Access to the site is from Station Road to the north. The former station building and associated land lies to the west, unrelated industrial units and an open field lie to the east and a small copse and a Severn Trent pumping station lie to the south.

Technical Document submitted with Application

Design and Access Statement

**Relevant Planning History:-**

07/00561/FUL	Erection of Perimeter Security Fencing	Approved	26.07.07
04/00491/FUL	Extensions to form Additional Storage	Approved	09.07.04



## **Consultations:-**

No objection has been received from:-

Severn Trent Water Limited  
British Waterways  
Inland Waterways Association.

No objections subject to conditions have been received from:-

Director of Environment  
Transport (Highways).

Head of Community Services (Land Drainage) does not object but provides comments in respect of permeable paving and sustainable drainage systems

Head of Community Services (Pollution) requests additional information in respect of potential noise sources, noise mitigation and land contamination.

Market Bosworth Parish Council support the application.

Leicestershire Constabulary Crime Reduction Officer requests developer contributions towards police infrastructure.

At the time of writing the report no response has been received from:-

LCC Developer Contributions  
National Grid  
Western Power Distribution  
Press Notice  
Site Notice  
Neighbours.

The consultation period remains open at the time of writing this report and closes on 15 June 2012. Any further consultation responses received before the committee meeting date will be reported and appraised as a late item.

## **Policy:-**

### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012  
The Community Infrastructure Levy (CIL) Regulations 2010

### Regional Policy Guidance: East Midlands Regional Plan 2009

Policy 1: Regional Core Objectives  
Policy 2: Promoting Better Design  
Policy 3: Distribution of New Development  
Policy 20: Regional Priorities for Employment Land

### Local Plan 2006-2026: Core Strategy (2009)

Policy 7: Key Rural Centres  
Policy 11: Key Rural Centres Stand Alone

## Hinckley and Bosworth Local Plan 2001

Policy EMP1: Existing Employment Sites  
Policy EMP2: Expansion of Existing Employment Uses  
Policy BE1: Design and Siting of Development  
Policy NE2: Pollution  
Policy NE5: Development in the Countryside  
Policy NE12: Landscaping Schemes  
Policy NE14: Protection of Surface Waters and Groundwater Quality  
Policy NE16: Storage of Oils, Fuels and Chemicals  
Policy T5: Highway Design and Vehicle Parking Standards

## Other Material Policy Guidance

The Employment Land and Premises Study (2010)

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, the design and layout of the development and its impact on the character and appearance of the site and the surrounding area, highway safety, amenities of neighbouring properties and other issues.

### Principle of Development

The Design and Access Statement submitted to support the application states that J J Churchill Limited has been established in Market Bosworth for approximately 74 years and currently provides employment for approximately 120 staff. Additional workload, secured orders and the nature of the technology being used have generated a requirement for additional floor space to accommodate additional manufacturing capability and to enable the existing manufacturing process to be more efficient by improving the flow of components and reducing handling and movement during and after the production process. It is also stated that whilst the development will not result in any increase in employment at the present time, it will secure employment for the current workforce.

The National Planning Policy Framework (NPPF) provides a presumption in favour of sustainable development and promotes the expansion of high technology industries and sustainable growth and the expansion of businesses in rural areas. Core Strategy Policies 7 and 11 support the enhancement of allocated employment sites in Key Rural Centres which include Market Bosworth. Policy EMP1 and the Employment Land and Premises Study identify the site as being a primary employment site to be retained for such purposes. Policy EMP2 supports the expansion of existing firms subject to other planning matters being appropriately addressed. These policies are consistent with the NPPF and can therefore be given significant weight. Policy NE5 can only be given limited weight following the publication of the NPPF and its presumption in favour of sustainable development but nevertheless this policy also supports development in the countryside that is important to the local economy subject to other planning matters being appropriately addressed. In addition, whilst the proposed new building is located outside of the boundaries of the designated employment site and the settlement boundary of Market Bosworth and will extend built form into the countryside, it is within the area occupied by the former railway sidings and is currently used for external storage and as a result is considered to be 'brownfield' land.

As a result of the established industrial uses of the adjacent site and immediate surroundings and the importance of the proposed development to the economic well being of this important rural business, it is considered that the proposals are sustainable development that

will enhance this allocated employment site and provide a significant contribution to the local rural economy and therefore are in accordance with Policies 7 and 11 of the adopted Core Strategy, Policies EMP1, EMP2 and NE5 and the overarching principles of the NPPF and that these considerations outweigh any policy conflict in terms of development in the countryside. The proposals are therefore considered to be acceptable in principle subject to all other planning matters being appropriately addressed.

#### Design and Layout and Impact on the Character and Appearance of the Site and Surrounding Countryside

Criterion a of Policy BE1 requires development to complement or enhance the character of the surrounding area with regard to scale, layout, design and materials. Criteria i and ii of Policy NE5 require development to be in keeping with the scale and character of existing buildings and not have any adverse impact on the surrounding landscape. Criterion i of Policy BE1 and criterion iii of Policy NE5 require the incorporation of landscaping where this would add to the quality of the development and provide screening. Policy NE12 requires provision to be made for landscaping where appropriate.

The land within the applicant's ownership is relatively narrow in width compared to its length and therefore the opportunities for an additional building of the required size are restricted. The new building has been located to the rear of the existing production building with an external storage yard and HGV turning area between. This layout will allow the servicing of both the existing and new building from the central yard and is considered to be acceptable. The proposed building is subordinate to the existing production building being significantly smaller in terms of floor space and the new floor space is partially off-set by the demolition of another (unsuitable for purpose) building towards the front of the site to allow the formation of a new parking area. The building to be demolished is not of any architectural merit and its loss is acceptable. The design of the new building with profiled sheet cladding and low pitched roof is typical of modern industrial units and the scale and appearance of the building, using matching cladding panels in silver with blue trim, will reflect that of the existing production building. As a result, the design, scale and appearance of the new building is considered to be acceptable.

The ground works to remove earth banks and retaining walls and to level off and resurface the existing yard area will enable the provision of a new 4 metres wide internal access road and external storage and provide much improved turning facilities for heavy goods vehicles (HGV's) as well as enhancing the overall appearance of this part of the site.

Whilst the layout will result in an extension of built form into the countryside to the south of the existing employment site, the land has been previously used as railway sidings and is therefore 'brownfield' land. In addition, the applicant intends to implement additional tree and hedgerow planting along the boundary of the site adjacent to the new building and access road in order to reduce the visual impact from the new building on the amenities of the adjacent countryside. As no details of the proposed landscaping have been submitted a condition requiring the submission of these details to the Local Planning Authority for prior assessment and approval together with an implementation and maintenance programme is considered to be reasonable and necessary in this case to ensure satisfactory landscaping of the site.

As a result of the layout, design, scale and appearance of the proposed building and associated works together with additional landscaping, the proposals will enhance the appearance of the site and will not have any material adverse impact on the character or appearance of the countryside. The proposals are therefore considered to be in accordance with Policies BE1 (criterion a and e), NE5 (criteria i, ii and iii) and NE12 (criterion b and d).

### Impact on Parking and Highway Safety

Criterion a of Policy EMP2 and Criterion g of Policy BE1 requires development to provide adequate access, parking and manoeuvring facilities. Criterion iv of Policy NE5 requires that development does not impair road safety. Policy T5 refers to highway design and vehicle parking standards.

The proposed development will use the existing accesses to the site off Station Road and no alterations are proposed. The proposals include the formation of a new 45 space car parking area to replace parking displaced as a result of the proposals, in addition to the existing car parking area to the front of the main production and offices building. The Director of Environment and Transport (Highways) does not object to the application but recommends conditions to ensure that the parking and turning areas are provided prior to first use of the development and that adequate parking for construction vehicles are provided within the site. As the site already benefits from a cycle storage area an additional recommended condition requiring such facilities is not considered to be necessary. The proposals are considered to be in accordance with Policies T5, EMP2 (criterion a), BE1 (criterion g) and NE5 (criterion iv).

### Impact on Neighbouring Properties

Criterion i of Policy BE1 and criterion b of Policy EMP2 require that development does not adversely affect the occupiers of neighbouring properties.

The proposed building is to be used for the production and manufacture of precision engineered metal products and components for the aerospace and defence industry and falls under Class B2 (General Industry) of the Use Classes Order. Such uses have the potential to have an adverse impact on residential amenity through the generation of noise. The nearest existing residential property is known as Sedgemere and lies approximately 160 metres to the north west of the proposed new building. There are other residential properties approximately 200 metres to the north east on Heath Road.

The applicant states that as a result of the technology being used and state of the art manufacturing processes noise levels will be less than the existing production space and that, in addition, the doors to the building will remain closed during the majority of the time that production is being carried out. Notwithstanding this, before submitting a formal response the Head of Community Services (Pollution) has requested additional information to be submitted in respect of the manufacturing processes involved and any ancillary operations that will take place in and around the unit, particularly regarding any sources of noise together with any proposed noise mitigation measures. At the time of writing this report the applicant is in the process of commissioning a noise impact assessment to be undertaken. The formal response of the Head of Community Services (Pollution) will be reported as a late item to the agenda.

### Other Issues

Given the past uses of the site as a railway siding the Head of Community Services (Pollution) advises that the site is of interest in respect of potential contamination. The applicant advises that a full environmental and geotechnical survey involving soil testing has been commissioned. The full report will be available when all the monitoring and tests have been completed. The formal response of the Head of Community Services (Pollution) has not been received at the time of writing this report and will be reported as a late item to the agenda.

The Head of Community Services (Land Drainage) recommends that proposed hard surfaced areas should be constructed in a permeable paving system and that surface water



runoff should be managed by sustainable methods. The applicant states that storm water drainage will be accommodated by a sustainable drainage system connecting into the existing water courses. As such a condition requiring all surface water run-off from hardstanding areas to be passed through adequate fuel/oil interceptors is considered to be reasonable and necessary in this case to ensure satisfactory protection of surface water and groundwater quality.

There is a Site of Interest for Nature Conservation (SINC) approximately 50 metres to the west of the application site. However, due to the separation distance and buffer provided by the railway line and sidings between, it is considered to be unlikely that the proposals will result in any adverse impact on the site of ecological interest.

The Ashby Canal Conservation Area lies approximately 140 metres to the west of the site. However, due to the separation distance and buffer provided by the railway line and sidings between, it is considered to be unlikely that the proposals will result in any adverse impact on the Ashby Canal Conservation Area. British Waterways and the Inland Waterways Association have raised no objections to the application.

A request for a developer contribution has been received from Leicestershire Constabulary in the sum of £8,694.00. Following consultation with the Council's legal section, it is considered that the request does not satisfy the tests set out in the Community Infrastructure Regulations 2010 in that it is not necessary to make the development acceptable in planning terms, is not directly related to the development and is not fairly and reasonably related in scale and kind to the development

### Conclusion

The proposals are acceptable in principle as the economic benefits of the scheme are considered to outweigh any policy conflict in terms of development in the countryside. The layout, design, scale and appearance of the development are considered to be acceptable and will not have any material adverse impact on the character or appearance of the countryside or the Ashby Canal Conservation Area. Satisfactory parking and servicing will be provided within the site therefore no adverse impact on highway safety will result. Subject to satisfactory details being submitted in respect of noise and noise mitigation measures and land contamination the proposals will not have any material adverse impact on the amenities of neighbouring properties, ecology, the amenities of the occupiers of the site or risk to pollution of surface or ground waters. The proposals are therefore considered to be in accordance with Policies 7 and 11 of the adopted Local Plan 2006-2026: Core Strategy (2009), Saved Policies EMP1, EMP2 (criteria a, b and c), BE1 (criteria a, c, e, g and i), NE2 (criteria a and b), NE5 (criteria i, ii, iii and iv), NE12 (criteria b and d), NE14, NE16 and T5 of the adopted Hinckley and Bosworth Local Plan 2001 and the overarching principles of the NPPF. The application is therefore recommended for approval subject to conditions.

**RECOMMENDATION:- That subject to no significant planning objections being received by 15 June 2012 and to favourable reports being received from the Head of Community Services (Pollution) in respect of noise and contamination it is recommended that the application be approved 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 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 will contribute to the

rural economy, its layout, design and appearance would enhance the character and appearance of the site and it would not have any material adverse impact on the character or appearance of the countryside, the Ashby Canal Conservation Area, highway safety, the amenities of neighbouring properties, ecology or surface water or ground water quality.

Hinckley and Bosworth Local Plan (2001):- Policies EMP1, EMP2 (criteria a, b and c), BE1 (criteria a, c, e, g and i), NE2 (criteria a and b), NE5 (criteria i, ii, iii and iv), NE12 (criteria b and d), NE14, NE16 and T5.

Local Plan 2006-2026: 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 at 1:5000 scale; Block Plan rev B at 1:1250 scale; Floor Plan and Site Layout Drawing no. P -01 Rev A and Elevations and Sections Drawing no. P -02 Rev A received by the Local Planning Authority on 15 May 2012.
- 3 Notwithstanding the submitted details, no development shall commence until, 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 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 5 Before the building hereby permitted is first brought into use, turning facilities for delivery vehicles shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall thereafter be maintained for such use at all times thereafter.
- 6 Before the building hereby permitted is first brought into use, the 45 space car parking area shown on the approved plan Site Layout Drawing No. P -01 Rev A shall be provided, surfaced, sealed and marked out in accordance with the submitted details and once provided shall thereafter be permanently retained for parking at all times thereafter.
- 7 For the period of the construction of the development, all vehicles associated with the development shall be parked within the site at all times.
- 8 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and other hardstandings shall be passed through a fuel/oil interceptor designed and constructed to have a capacity and details compatible with the site being drained.
- 9 Notwithstanding the submitted details, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved

in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- a) proposed finished levels or contours
- b) means of enclosure
- c) hard surfacing materials
- d) planting plans
- e) written specifications
- f) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- g) implementation programme.

- 10 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.

**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 (criterion a) of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the development does not have any adverse impact on the visual amenity or character of the area, to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan.
- 5 To enable vehicles to enter and leave the site in a forward direction in the interests of highway safety to accord with Policies EMP2 (criterion a), BE1 (criterion g) and T5 of the adopted Hinckley and Bosworth Local Plan.
- 6 To ensure that adequate off-street parking facilities are available to serve the development to accord with Policies EMP2 (criterion a), BE1 (criterion g) and T5 of the adopted Hinckley & Bosworth Local Plan.
- 7 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 in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure the protection of controlled waters to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan
- 9 To enhance the appearance of the development to accord with Policies NE12 (criterion b) and BE1 (criterion e) of the adopted Hinckley & Bosworth Local Plan.
- 10 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policy NE12 (criterion d) 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

**Contact Officer:-** Richard Wright                      Ext 5894

**Item:**                      **10**

**Reference:**              **12/00402/FUL**

**Applicant:**              **Mr J Penman**

**Location:**              **Unit G Maple Drive Hinckley**

**Proposal:**              **ERECTION OF SQUASH CLUB BUILDING**

**Target Date:**        **20 July 2012**

### Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a leisure development over 500 square metres.

#### Application Proposal

Full planning permission is sought for the erection of a two storey D2 leisure building for Hinckley Squash Rackets Club, on plot E2, Tungsten Park.

The building proposed is a two storey rectangular building. The design incorporates a curved roof with an eaves height of approximately 5.9m, and an overall height to apex of roof of approximately 9.2m above finished floor level. The building is to be of steel frame construction, with curved standing seam roof. The walls are formed by horizontal "micro-rib" flat cladding panels; with low level brickwork feature around the perimeter, with brick panels either side of the main entrance curtain wall screen.

All elevations are to be clad in horizontally laid Metallic Silver micro-rib panels, with contrasting Merlin Grey cladding 'banding' panels to east and south elevations. In addition, flashings, gutters, rainwater pipes, and curtain wall / window panels are also coloured Merlin Grey to break the Metallic Silver elevations and provide partial bands of contrasting colour.

Two-storey height, double fronted, curtain wall glazing provides a feature reception area to the building, creating an atrium internally at first floor level.

The leisure facility will incorporate four squash courts, viewing gallery, changing rooms, gym and a lounge/bar area.

Car parking is allocated in front of the eastern elevation, with a total of 15 car parking spaces, including two disabled spaces. The facility is intended to be operational for 24 hours a day.

Due to officer concerns over the design of the eastern elevation of the building; in that its appearance is bland and lacks interests, amended plans have been requested. In response to this request, the developer has stated that due to financial constraints the design will remain as existing. Accordingly the application will proceed on this basis.

An amended Sequential Test has also been requested. This contains additional information in respect of how the choice of location for the facility was reached. This will be discussed within the appraisal below.

#### The Site and Surrounding Area

Unit G is located towards the southern end of the Tungsten Park Development, to the north of the recently established 'KFC' and the Coventry Road. The application site area is 0.14 hectares and is rectangular in shape. Tungsten Park is located to the north of Coventry Road and to the west of the Ashby Canal. Immediately to the north-west of the application site is the completed Phase of Tungsten Park, 17 light industrial / warehouse units, known as Radius Court; to the immediate north plots A&B are consented to provide 2, two-storey, office buildings. The wider area is characterised by a mixture of planning uses, including commercial, industrial, office, residential and retail. The site is located within the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan.

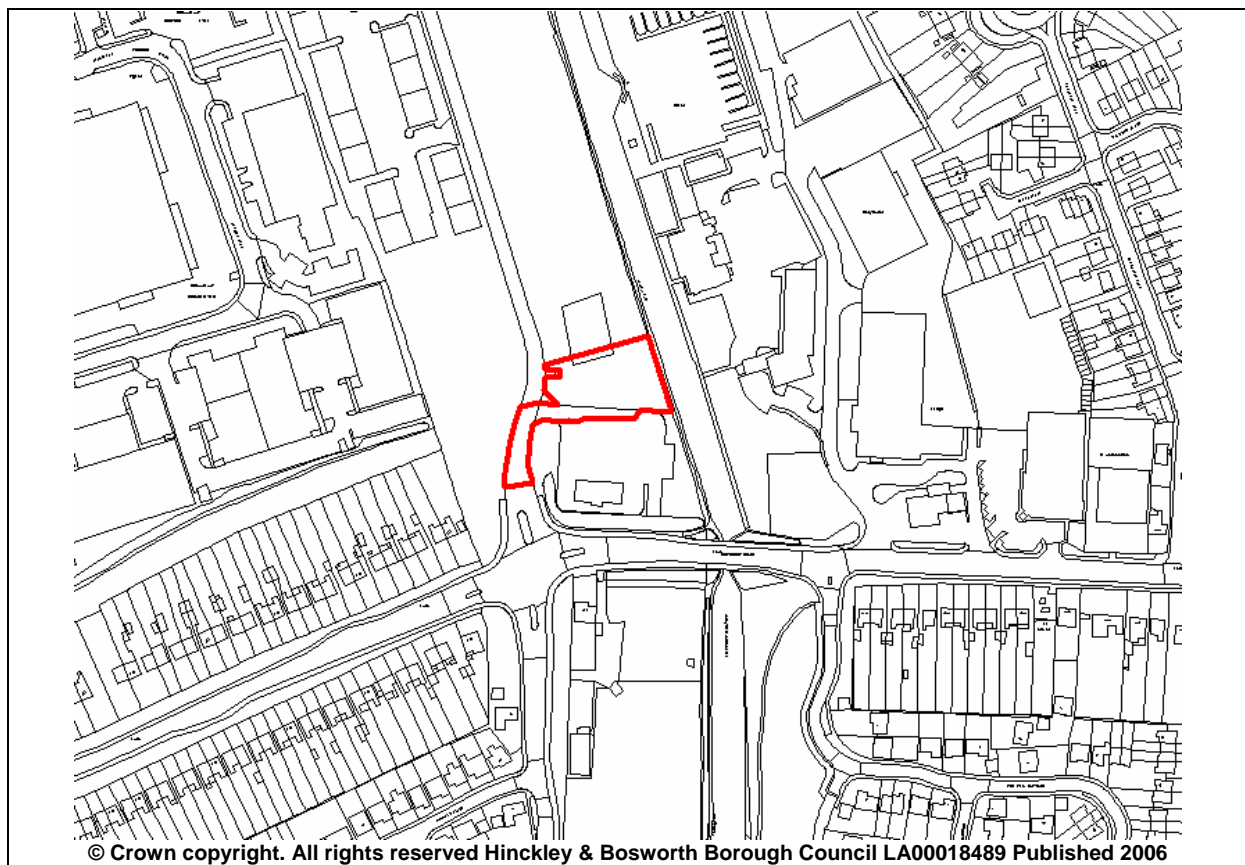
#### Technical Document submitted with application

The application is accompanied by a Design and Access Statement, incorporating a Planning Statement, a Parking Statement and a Landscaping Statement. A Sequential Test has also been submitted.

#### **Relevant Planning History:-**

12/00067/FUL	Erection of 2no. industrial buildings (B1,B2,B8)	Approved	12.04.12
11/00706/FUL	Erection of industrial/ Warehouse building (Use Classes B1/B2/B8)	Approved	27.10.11
07/01150/FUL	Mixed commercial development comprising B1, B2, B8 and sui generis uses	Approved	12.12.07
07/00529/FUL	Mixed commercial Development comprising B1, B2, B8 and sui generis uses	Refused (Dismissed at Appeal)	29.08.07

05/00615/FUL	Erection of 10 Commercial units	Approved	01.08.05
03/00411/CONDIT	Variation of condition 3 of application 99/00048/OUT to allow extension of time for submission of reserved matters	Approved	09.06.03
99/00048/OUT	Industrial Development No LPA Decision for B1, B2 and B8 uses	Appeal Allowed	09.05.00



**Consultations:-**

No objection has been received from Head of Community Services (Land Drainage).

No objection subject to conditions have been received from:-

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

The Inland Waterways Association does not object to the principle of the development but are concerned over the proximity of the parking spaces to the canal, and the impacts these may have in terms of visually amenity and noise and disturbance to the conservation area.

In addition they comment that the hedge which screens the canal is currently dense, but that it should be ensured that any gaps in this are reinforced in order to maintain the screen.

The Borough Councils Conservation Officer does not formally object to the application, but has raised concerns that the eastern elevation appears bland and lacks interest.

One letter of objection has been received from the Saxon Paddock Residents Association, this raises the following concerns:-

- a) that the proposal will only be available on an 'Exclusive Membership' basis
- b) the parking proposed will result in additional congestion on Coventry Road
- c) concerns that the proposed balcony will overlook KFC and the surrounding residential properties
- d) there is insufficient parking to cater for the potential spectator numbers which will result in further detrimental impacts on the surrounding highway
- e) concerns about the proposed bar and consequential negative impacts on the surrounding area.

Site notice and Press notice were displayed and neighbours notified.

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

Head of Community Services (Pollution)  
Severn Trent Water Limited  
Ashby Canal Association  
British Waterways.

#### **Policy:-**

##### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Regional Policy Guidance: East Midlands Regional Plan 2009

None relevant.

##### Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley

##### Hinckley and Bosworth Local Plan 2001

Policy REC4: Proposals for Recreational Facilities

Policy BE1: Design and Siting of Development

Policy T5: Highway Design and Vehicle Parking Standards

Policy BE7: Development in Conservation Areas

Policy REC6: Ashby Canal Corridor

Policy NE4: Areas of Separation

## Supplementary Planning Guidance/Documents

None relevant.

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, siting and design and impact upon the character and appearance of the adjacent Conservation Area, impact upon residential amenity, highway considerations and other matters.

### Principle of Development

Within the Hinckley and Bosworth Local Plan the site is designated an 'Area of Separation' under Policy NE4, this protects areas of land between settlements and/or other development against development other than that associated with agriculture, horticulture, community or sport and recreation uses. Previous planning history has granted approval for this site for commercial uses, as such the designation of the site as an 'Area of Separation' is outdated and no longer relevant.

Policy REC4 states that planning permission will be granted for new recreational facilities so long as they are situated within or adjoining built up areas, do not have an adverse impact on adjacent land uses or dwellings, is acceptable in terms of design and character and provides adequate parking and access.

Notwithstanding the above, within the NPPF the development proposed would be considered as a main town centre use. Such uses are encouraged within town centres to promote their competitive environments and sustain their vitality and viability. Local Planning Authorities are required to allocate a range of suitable sites to meet the need of such uses, and ensure the provision of such is not compromised by limited site availability. For planning applications which propose main town centre uses in edge of town or out of centre locations, a sequential test should be submitted with the proposal to justify the developments' location. This test should ensure that all sites are assessed for their availability, suitability and viability, that all in centre options have been thoroughly assessed before less central sites are considered, and that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access. The proposed site is considered 'out of centre' in the context of the NPPF.

In this case a Sequential Test has been submitted with the application; however its content is limited and does not identify or fully appraise the available alternative sites, either within, on the edge of the town centre or in out of centre locations. Further information has been requested to demonstrate that the proposed site is sequentially preferable and the only available option to accord with paragraph 24 of the NPPF. This will be reported as a late item.

### Siting, Design and Impact upon the Character and Appearance of the Conservation Area

The site lies adjacent to Ashby-de-la-Zouch canal, which is a designated Conservation Area and is afforded protection through Policies BE7 and REC6 of the Hinckley and Bosworth Local Plan. It is a statutory requirement that any new development should at least preserve the character of the Conservation Area, as stated within Local Plan Policy BE7.

The principle of siting units along the eastern side of Tungsten Park has already been established through the earlier grant of planning permission ref: 07/01150/FUL. The previous



scheme approved Unit E – (the Mitsubishi car show room) which would be adjacent to the proposed unit, was significantly closer to the canal (11.1m) and had a larger footprint than the building currently proposed. In this case the proposal will be 15.7 metres from the canal and will have a footprint of roughly 618 metres squared. Although concerns have been raised in respect of the location of the parking, which is adjacent to the eastern boundary, and potential impacts on the visual amenity of the canal and the conservation area, given the dense screening along the eastern boundary, the parking area will not be visually prominent from the conservation area, and the landscaped boundary is considered adequate to reduce any impacts in terms of noise and disturbance.

The design of the building is modern. The curved roof, with its shallow pitch respects that of the other commercial buildings on Tungsten Park, both those that are already constructed and those approved awaiting construction. Further, the units simple rectangular form with the curved roof, adds further mass and visual interest to the proposal, whilst not detracting from the inherent curved roof form of the wider development. In respect of materials, the elevations of the units comprise a combination of cladding and glazed panels, with aluminium window and door units, reflective of the materials used in the surrounding units. This said the more prominent road facing elevations are significantly more detailed and incorporate a wider range of materials than those facing within the site and towards the canal. Whilst it is acknowledged that the elevational detail is somewhat dictated by the proposed end use, and its specific requirements, objections have been received by the Councils Conservation Officer that the eastern elevation (canal facing) is too bland and lacks detail. To overcome these concerns, amended elevational detail was requested from the developer, however due to financial constraints, this request cannot be adhered to. Accordingly, it lies with the LPA to consider whether the eastern elevation will have significant detrimental impacts on the Character of the Conservation area, to warrant refusal of the scheme.

Policy REC6 requires development within the Ashby Canal Corridor to be of a high standard of design, in keeping with the character of the canal, and Policy BE7, development within Conservation Areas, states that developments should be of a design and proportion sympathetic to the characteristic form of the area, be compatible with adjacent buildings and spaces and utilise materials and finishes which respect local traditional materials and techniques. Concerns have been raised in respect of the design of the eastern elevation, this comprises a 1 metre high brick plinth with grey coloured curtain walling above and three small openings. Whilst existing buildings on the opposite side of the canal (Brewer's Fayre), fronting the canal are built from facing brickwork, the majority of recently built developments on Tungsten Park are constructed from similar materials to those proposed, including recently permitted units . Accordingly, on balance, although the incorporation of additional brickwork detail would have been preferential, given the mature screening adjacent to the canal and the materials permitted on surrounding developments, it is not considered that the design of the eastern elevation of the development would warrant refusal of the application or would have a materially detrimental impact on the character of the Conservation Area or on the visual amenity of the Canal.

As mentioned above, there is a mature hedgerow along the eastern elevation which will help screen the development from the canal and conservation area. Although this is shown as being retained on the plans, the LPA currently have no controls over its retention. Accordingly as this feature is considered central to the acceptability of the scheme, to ensure that the proposed unit will have no greater adverse impact on the character and appearance of the Conservation Area over and above that approved under the 2007 permission (ref: 07/01150/FUL), It is considered necessary to ensure that additional landscaping/planting is strictly imposed and that the existing hedgerow is protected. As such appropriately worded conditions are considered necessary to secure these full details and it is on this basis that the development is considered acceptable.

In terms of wider visual impacts, it is considered that by virtue of the separation distances from the canal, the design of the units and the presence of existing and additional landscaping that there would be no significant detrimental impacts of the scheme when being viewed from the canal towpath and the marina to the east. Further, the development will not appear overly prominent from Coventry Road given the existing KFC development and the change in level across the site.

Therefore on balance, the design, siting and materials proposed, combined with the retention of the canal side hedgerow and additional hedgerow and landscaping will ensure that the character and appearance of the Conservation Area is preserved in this case. As such, the development is considered to be in accordance with Saved Policies BE1, BE7 and REC6 of the adopted Hinckley and Bosworth Local Plan.

#### Impact upon Residential Amenity

The residential dwelling most immediately impacted upon as a result of the proposal would be No.391 Coventry Road to the south west of the proposal. There is a distance of approximately 80 metres between the proposed development and the residential dwelling. Although concerns have been raised in that the proposed balcony may result in overlooking of the dwellings on Coventry road, given that this balcony will face towards the south and given the separation distances, there are considered to be no significant material impacts in terms of overlooking.

Concerns have been raised that the proposed bar may have adverse impacts in terms of noise and disturbance. The bar will be a private facility for members of club, and given this, and its distance from surrounding residential properties; it is not considered that there will be any material impacts in terms of noise and disturbance. This has been confirmed by Head of Community Services (pollution) who has raised no objections to the scheme.

In summary, the proposal is considered to have minimal impacts upon amenity of neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy BE1 of the Local Plan.

#### Highway Considerations

The application seeks to take access from the Tungsten Park spine road and proposes 15 no. car parking spaces, including 2 no. disability spaces. The development has been considered by the Director of Environment and Transport (Highways) who has recommended approval subject to the imposition of a condition requiring cycle parking provision, to increase the sustainability of the proposal and a surfacing condition. These conditions are considered necessary and reasonable and will be imposed.

Concerns have been raised that the proposed use will result in additional congestion on Coventry Road and that there are insufficient numbers of parking spaces to cater for the possible number of spectators. On balance, the Director of Environment and Transport (Highways) has raised no objections in respect of this and thus that there are no sustainable grounds to object in terms of highway safety. No concerns have been raised in respect of the number of parking spaces proposed.

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

## Other Issues

### Letter of Objection

It has been stated that that the facility will only be available on an 'Exclusive Membership' basis. This is not a material planning consideration over which the LPA have control and thus has no bearing on the outcome of the application.

The remaining points raised within the letter of objection have been addressed in the main body of the report.

### Conclusion

It is considered that the proposed development is considered acceptable in principle subject to the Sequential Test being amended to demonstrate that the location of this recreation facility within this 'out of centre' location is the most viable and acceptable option. Overall by reason of the schemes design, scale and materials combined with existing and proposed landscaping it is considered that the scheme preserves the character and appearance of the adjacent Conservation Area. The development is not considered to give rise to any impacts upon residential or visual amenity or in terms of highway safety. Accordingly, the application is recommended for approval subject and amended sequential test and the imposition of planning conditions.

**RECOMMENDATION: - Permit subject to no significant material objections being received prior to the expiry of the consultation period on 19 June 2012, the submission of an amended sequential test and to the following conditions:**

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below 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 proposed location of the proposal, its design, siting, materials and landscaping, the scheme is considered to preserve the character and appearance of the adjacent Conservation Area and is not considered to give rise to any material impacts upon visual or residential amenity or in terms of highway safety.

Hinckley and Bosworth Local Plan (2001):- Policies REC4, BE1 criteria a, b, e, f, g, h, i and l, T5, BE7, REC6 and NE4.

Local Plan 2006-2026: Core Strategy (2009): - Policy 1.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg refs:- 6605/161B, 6605/160 A, 6605/155 D, 6605/142 H received by the Local Planning Authority on the 25 May 2012
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed development 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 No development shall commence until details of a scheme to safeguard the existing hedgerow along the eastern boundary of the site 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.
- 5 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 .
- 6 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 7 Before the development hereby permitted is first used, a scheme for cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved, and retained thereafter.
- 8 The areas parking and turning areas shall be surfaced, sealed and drained before the development is first occupied/brought into use and thereafter retained.

**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 and to preserve the character of the Conservation Area in accordance with policies BE1 criteria a, and policy BE7.
- 4 To protect the existing hedgerow during development in order to secure it's retention as a wildlife habitat and to protect the character, appearance and biodiversity importance of the adjacent canal corridor and to preserve the character and appearance of the Ashby Canal Conservation Area to accord with 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.
- 7 In the interests of the sustainability of the development and to encourage alternative transport choice in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 8 In the interests of pedestrian safety 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

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

**Item:** 11

**Reference:** 12/00451/DEEM

**Applicant:** Hinckley & Bosworth Borough Council

**Location:** Unit B Fleming Road Hinckley

**Proposal:** ACOUSTIC FENCE TO REAR BOUNDARY

**Target Date:** 24 July 2012

**Introduction:-**

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

Application Proposal

An application for extensions and alterations to create an operational headquarters facility for Council services with an ancillary waster transfer facility was considered by Planning Committee in May. Members visited the site as part of that consideration. In considering that application Members may recall that an objection had been raised in respect of the bund and

line of trees to the rear of neighbouring properties. A noise impact assessment was submitted as part of that application. Following consideration of the noise assessment the Head of Community Services (Pollution) indicated that they would urge the applicant to improve the fence as noise attenuation could be improved further but the noise report submitted with the application did not justify them asking for this as a condition. Therefore, whilst not a requirement of the planning permission, the applicant has taken the decision to erect a new acoustic fence to improve the residential amenity of the properties to the south of the site that front onto Coventry Road.

The application proposes erection of a 3.5 metre high timber acoustic fence to the southern, rear boundary of the site for a length of approximately 80 metres. A 3 metre wide gate is proposed to the south-eastern corner of the site within the line of the fence to gain access to the trees for maintenance.

The acoustic fencing proposed is Jakoustic fencing giving 25db attenuation rating.

### The Site and Surrounding Area

The application site is within an existing employment site. There are residential properties to the south of the site on Coventry Road. There is a row of conifer trees along the southern boundary of the site. Beyond the site boundary there is a further row of conifers on top of the bund that are the subject of a group Tree Preservation Order.

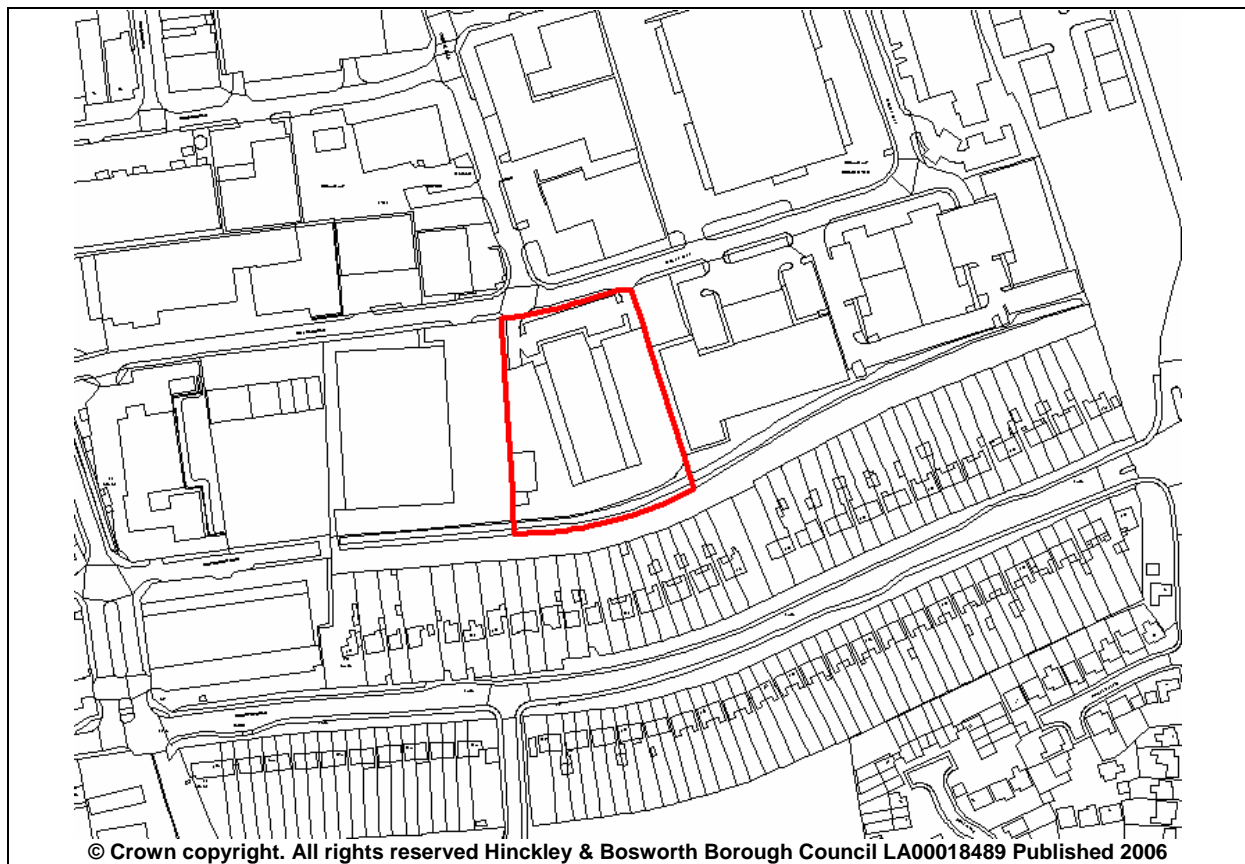
### Technical Documents Submitted with application

The application is accompanied by a design and access statement and site sections to show the relationship with properties to Coventry Road.

### **Relevant Planning History:-**

12/00288/DEEM The erection of a two storey side extension and replacement aluminium windows and doors to an existing office building, the lowering of the existing floor level and part closure of an existing cross deck warehouse with new cladding and associated roller shutter and personnel doors, palisade fencing, gates and CCTV cameras, together with parking for amenity service vehicles to create an operational headquarters facility for council services with ancillary waste transfer facility. Approved 30/05/2012

05/01114/FUL	Warehouse extension to existing factory	Approved	12.12.05
87/00658/4	Erection of boundary fence and use of land for trailer parking	Approved	28.07.87
78/00126/4	Erection of industrial unit for the manufacture of packaging machines	Approved	21.03.78
74/00493/4	Warehouse and ancillary office for Bullen's Transport Ltd.	Approved	23.07.74



**Consultations:-**

No comments have been received from:-

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

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

The Borough Council's Arboricultural Consultant  
Neighbour notification and Site Notice.

**Policy:-**

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Regional Policy Guidance - East Midlands Regional Plan 2009

None relevant.

Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley

## Hinckley and Bosworth Local Plan 2001

Policy EMP1: Existing Employment Sites  
Policy BE1: Design and Siting of Development

### Supplementary Planning Guidance/Documents

None relevant.

### Other Material Policy Guidance

The Employment Land and Premises Study identifies Harrowbrook Industrial Estate as category 'A':- A key/flagship employment area which should be retained for 100% employment use.

The Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies document (WDF Core Strategy).

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, layout, scale and design of development and the impact on residential amenity and impact on existing trees.

### Principle of Development

The principle of an operational headquarters facility with an ancillary waste transfer facility was established when planning permission was granted on 30th May 2012. The erection of the acoustic fence is a further measure proposed to mitigate against the impact of noise from the existing employment site to nearby residents on Coventry Road. Policy BE1 seeks a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. In accordance with Policy BE1, criteria i planning permission will be granted where development does not adversely affect the occupiers of neighbouring properties.

The NPPF has a presumption in favour of sustainable development with core planning principles which include securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The principle of the erection of the acoustic fence is considered to be acceptable and consistent with the NPPF and Policy BE1 criteria i of the Local Plan.

### Layout, Scale and Design

Local Plan Policy BE1 seeks a high standard of design to safeguard and enhance the existing environment through a criteria based policy. These criteria include ensuring the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features'. Criteria a of Policy BE1 is considered to have limited conflict with the NPPF and as such should be given weight in consideration of this application.

There is an existing bund, approximately 2 metres high along the southern boundary of the site. There is a 1.8 metre high fence positioned along the bund. The new fence will be positioned within the site and separated from the bund and existing fence by a row of conifers. There is a further row of conifers beyond the site boundary. The view of the fence



from properties to the rear will be obscured by the existing fence and bund and two rows of trees. The fence is of an appropriate design within this industrial site and will be set against a backdrop of conifers.

The layout, scale and design is therefore considered acceptable and in accordance with Policy BE1, criteria a.

#### Impact on Residential Amenity

A noise impact assessment was submitted as part of the application that was approved in May for the operational headquarters facility with an ancillary waste transfer facility. That noise assessment concluded that, based on the predicted attenuation afforded by the bund and fence further investigation and monitoring was not necessary but the improvements to the fence, as discussed within the noise report, should be considered by the applicant to offer maximum attenuation to residents in Coventry Road. The decision by the applicant to erect the fence is considered to improve the residential amenity of the properties to the south of the site that front Coventry Road.

Whilst not a requirement of the planning permission granted in May, the provision of the acoustic fence is considered to be a further measure to help improve residential amenity and is considered acceptable.

#### Impact on existing trees

The application for the operational headquarters was accompanied by a Tree Survey Report detailing trees of a moderate and low quality that are to be retained and those to be removed. Two trees along the southern border (T3 and T5) and three to the northern border (G16) have been identified as weak and of no remaining life expectancy and therefore are recommended for removal. The remainder of the trees have been identified as being of moderate and low quality and the 25 no. Leyland cypress and 1 no. Corsican pine to the southern border are set to be retained. The Report also sets out the proposed works to each tree. The position of the acoustic fence will have no impact on the agreed works to the existing trees. The trees to the south of the site boundary are the subject of a group Tree Preservation Order. These are separated from the new fencing by the existing bund and row of conifers within the site and the proposals are not considered to have any impact on the preserved group of trees.

#### Conclusion

The principle of the acoustic fence is considered acceptable and is considered to improve residential amenity. The scale, layout and design of proposals is considered acceptable and is not likely to have any impact on existing trees. The proposals are considered to be in accordance with the NPPF and local development plan policies. Accordingly the application is recommended for planning permission.

#### **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 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. The resultant design, position and length of the fence is not considered to have a detrimental impact on residential or visual amenity or on existing trees. Accordingly the development is considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 criteria a and i and EMP1.

- 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 1:1250, Block Plan at 1:500 (LP)05 Revision B, Proposed Site Plan at 1:200 and 1:25 (D)01 Revision E, Measurement of Land and Levels (SY)04, Site Section showing Acoustic Fencing (D)07 Revision B and Acoustic Fencing Details (D)08 received by the local planning authority on 29 May 2012.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.

**Notes to Applicant:-**

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

**Contact Officer: -** Anne Lynch Ext 5929