

**PLANNING COMMITTEE**

**20 November 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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**Item: 01**  
**Reference: 12/00619/FUL**  
**Applicant: Woodlands Nurseries**  
**Location: Woodlands Garden Centre Ashby Road Stapleton**  
**Proposal: CHANGE OF USE AND CLADDING OF HORTICULTURAL BUILDING FOR STORAGE**  
**Target Date: 6 December 2012**

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the proposed floor space exceeds 500 square metres and the site area exceeds 0.5 hectares.

Application Proposal

This application seeks full planning permission for the change of use and cladding of part of an existing horticultural building to create 1020 square metres of secure garden centre storage. The horticultural building currently consists of large span glasshouses with an integral storage/deliveries area constructed of a red brick plinth with opaque cladding panels over and on the roof. The proposed cladding comprises of a brick plinth with horizontal cedar cladding over, high level timber framed windows and doors and composite cladding panels to the roof. The application does not propose any extension to the existing buildings.

The Site and Surrounding Area

The garden centre covers an area of approximately 6.68 hectares in total and is located on the west side of the A447 (Ashby Road) 1 mile north of Stapleton. In addition to the main garden centre building containing retail areas for a wide range of horticultural and other products and a restaurant, there are outdoor sales areas, large (non-public) horticultural glasshouses with an integral storage/deliveries area together with an additional detached storage building and service yard and staff/visitor parking areas within the overall site. The garden centre is surrounded by agricultural land with occasional detached dwellings to the west, east and north. The boundaries to the site are generally hedgerows and narrow bands of perimeter tree planting.

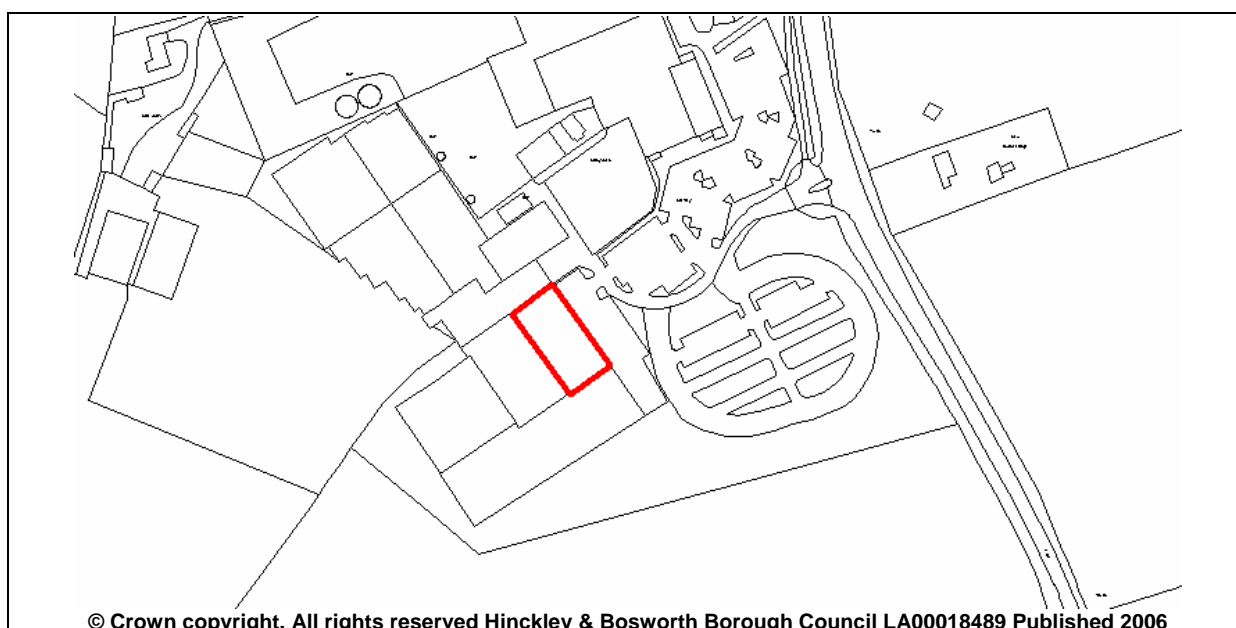
Technical Document submitted with application

Planning Design and Access Statement

**Relevant Planning History:-**

11/00407/FUL	Extensions and Alterations to Restaurant	Approved	14.07.11
11/00292/FUL	Extensions and Alterations to Garden Centre	Approved	11.07.11

11/00049/FUL	Extensions and Alterations to Restaurant	Refused	30.03.11
10/00818/CONDIT	Variation of Condition 2 of Planning Permission 09/0940/FUL For Minor Changes to the Building Design and Relocation of Tanks	Approved	06.01.11
09/00940/FUL	Demolition of Bungalow, Part of Glasshouse and Garden Centre Offices, COU of Garden Centre Warehouse to Retail Sales, Erection of Storage Building and Entrance Canopy, Relocation of Water Tanks, Fuel Tanks, and Sewage Treatment Plant and Formation of Additional Car Parking and Alterations to Open Sales Area	Approved	01.06.10
08/00141/FUL	Demolition of Existing Dwelling and Extension to Existing Garden Centre with Associated Works	Approved	12.05.08
03/00966/FUL	Extensions and Alterations to Form a Horticultural Plant Shade, Open Sales Area and Vehicle Turning Area	Approved	07.10.03
96/00094/FUL	Extension of Existing Glasshouses for Plant Production	Approved	11.03.96
86/0235/4	Erection of Glasshouse for Growing Horticultural Products	Approved	29.04.86



## **Consultations:-**

No objection has been received from:-

Director of Environment and Transport (Highways)  
Environment Agency  
Severn Trent Water Limited  
Western Power Distribution  
Head of Community Services (Pollution)  
Head of Community Services (Land Drainage).

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

Leicestershire Constabulary Crime Reduction Officer  
Peckleton Parish Council  
Press Notice  
Site Notice  
Neighbours.

## **Policy:-**

### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

### Regional Policy Guidance East Midlands Regional Plan 2009

Policy 2: Promoting Better Design  
Policy 24: Regional Priorities for Rural Diversification

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

None relevant.

### Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development  
Policy NE5: Development in the Countryside  
Policy T5: Highway Design and Vehicle Parking Standards

## **Appraisal:-**

The main considerations with regards to this application are the principle of development, the impact of the development on the character and appearance of the site and the surrounding landscape, neighbours amenities and highway safety.

### Principle of Development

The National Planning Policy Framework (NPPF) provides a presumption in favour of sustainable development. Paragraph 19 encourages significant weight to be placed on the need to support economic growth through the planning system. Paragraph 28 supports economic growth of all types of businesses and enterprise in rural areas including the conversion of existing buildings. Policy NE5 (criterion a) supports development in the countryside that is important to the local economy and Policy NE5 (criterion b) supports the change of use of existing buildings subject to a number of design criteria.

The horticultural glasshouses within the Woodlands Garden Centre site currently cover approximately 11,000 square metres of floor space. The loss of approximately 1020 square metres of this horticultural floor space is considered to be acceptable in principle in this case as it relates to a relatively small proportion of the total and is to be used for ancillary garden centre storage which will be compatible with the other uses of the site.

The supporting information submitted states that the garden centre is an important source of employment within the local area employing 158 staff. In this case the proposal will contribute to both the economic and social roles of sustainable development. The proposals involve the change of use of an existing building and will contribute to the rural economy by providing additional storage facilities required for the efficient operation of the business thereby safeguarding employment, enhancing economic viability and improving the services offered by the business to the community.

Overall, the proposed change of use for garden centre storage and cladding of a small proportion of this existing horticultural glasshouse building is considered to be sustainable development and to be in accordance with the overarching principles of the NPPF and Policy NE5 (criteria a and b) of the adopted Local Plan. The proposals are therefore acceptable in principle subject to all other planning matters being appropriately addressed.

#### Character and Appearance

The NPPF states that good design is a key aspect of sustainable development. Policy NE5 supports development in the countryside that is important to the local economy and for the change of use of existing buildings subject to a number of criteria which are consistent with the NPPF. Criteria i of Policy NE5 requires that there be no adverse impact on the character or appearance of the landscape. Criteria ii of Policy NE5 requires that development is in keeping with the scale and character of existing buildings. Policy BE1 (criteria a) is also consistent with the NPPF and requires development to complement the character of the surrounding area with regard to scale, design and materials.

Woodlands Garden Centre is located in the countryside but is a well established facility and has well defined boundaries with perimeter planting. The part of the horticultural glasshouse that is the subject of this application is located well within the boundaries of the site and faces towards the large customer car parking area. As a result of the location of the proposed storage area and existing perimeter planting the proposals will not have any adverse impact on the character or appearance of the surrounding countryside.

Overall the site has strong division between the customer buildings to the north east part of the site, customer parking to the south east of the site and the ancillary horticultural glasshouses, storage areas and servicing areas to the western half of the site. The part of the glasshouse that is the subject of this application is attached immediately to the north by an existing storage/deliveries building therefore the proposed change of use of this part of the glasshouse will merely change the proportions of the existing uses rather than introduce new uses to this part of the site.

Whilst the cladding of the glasshouse will alter its character and appearance, as a result of the use of sympathetic materials including a brick plinth, horizontal cedar cladding, timber framed doors and high level timber framed windows and composite cladding panels to the roof, the proposed external materials will reflect the rural location and will complement the character and appearance of other buildings within the site.

Overall, the proposals are therefore considered to be in accordance with Policies NE5 (criteria i, ii and iii) and BE1 (criterion a) of the adopted Local Plan together with the overarching design principles of the NPPF.

### Impact on Neighbours

Criteria i) of Saved Policy BE1 is considered to be consistent with the NPPF and states that planning permission will be granted where development does not adversely affect the occupiers of neighbouring properties.

The nearest residential property to the proposal is New House Grange located on Ashby Road approximately 175 metres to the east of the building. As a result of the separation distance the proposed change of use and cladding of the building will not result in any adverse impact on the amenity of the occupiers of that property or any other neighbouring residential properties. The proposals are therefore considered to be in accordance with Policy BE1 (criteria i) of the adopted Local Plan.

### Highway Safety

Policy BE1 (criteria g) and Policy NE5 (criteria iv) are considered to be generally consistent with the NPPF. They require development to make adequate provision for access, manoeuvring and parking and that development does not generate traffic on a scale that would impair road safety.

As the proposals relates only to the change of use and cladding of part of an existing building within the site, there are no proposed changes to the access, manoeuvring or parking arrangements. The proposals will not result in an intensification of use of the site that will generate additional traffic movements on a scale that would impair road safety. The proposals are therefore in accordance with Policies BE1 (criteria g), NE5 (criteria iv) and T5 of the adopted Local Plan 2001 and there is no objection from the Director of Environment and Transport (Highways).

### Conclusion

The NPPF and Policy NE5 of the adopted Local Plan support sustainable economic growth of all types of businesses and enterprises in rural areas, including the conversion of existing buildings therefore the proposals for additional ancillary storage are considered to be acceptable in principle. The proposals will contribute to the rural economy by improving the efficient operation of the business thereby safeguarding employment, enhancing economic viability and improving the services offered by the business to the community. As a result of the siting and design of the proposals and the use of appropriate sympathetic external materials that reflect the existing buildings within the site and its rural location, the proposals will not have any adverse impact on the character or appearance of the site or the surrounding countryside. As a result of the separation distances to neighbouring properties the proposals will not have any adverse impact on residential amenity. Due to the nature of the proposals there will be no adverse impact on highway safety.

Overall, the scheme is considered to be in accordance with Policies NE5 (criteria a, b, i, ii, iii and iv), BE1 (criteria a, g and i) and T5 of the adopted Local Plan together with the overarching principles of the NPPF. The application is therefore recommended for approval, subject 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 is for the change of use of an existing building to be used for ancillary storage for an existing business and by virtue of its siting, design and appearance will complement the character of the existing site and will not have any adverse impact on the character or appearance of the surrounding landscape, residential amenity or highway safety.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 (criteria a, g and i) and NE5 (criteria a, b, i, ii, iii and iv) 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. WGC/02 at 1:2500 scale; Proposed Site Plan Drawing No. T615-183 and Proposed Floor Plan and Elevations Drawing No. T615-185 received by the Local Planning Authority on 6 September 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 storage 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 The development hereby permitted shall be used for ancillary garden centre storage and for no other purpose.

**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 define the permission and to ensure that the use remains commensurate with the wider use of the site, to ensure compliance with Policies NE5 (criteria i and ii) and BE1 (criterion a) 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).
- 5 The applicant's attention is drawn to the consultation response from Western Power Distribution in respect of the high voltage underground cables in the immediate vicinity of the development.

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

**Item:**                      **02**

**Reference:**              **12/00810/FUL**

**Applicant:**              **Mr Henry Egerton**

**Location:**              **Elms Farm Atherstone Road Appleby Parva**

**Proposal:**              **ERECTION OF ONE WIND TURBINE**

**Target Date:**        **15 November 2012**

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as objections have been received from more than five objections, including Parish Council's objections.

Application Proposal

This application seeks full planning permission to erect a single wind turbine, including foundations, underground cables, crane hardstanding, access tracks, a temporary construction compound and switchgear housing.

The single three-bladed turbine comprising 24-metre blades would create a rotor diameter of 48 metres. The turbine is to be sited on a free-standing monopole to a height of 55 metres. Overall the maximum height to blade tip is 79 metres with projected output of 500 kilowatts.

The proposed foundations would measure approximately 12 metres in diameter to a depth of 1.5 metres in reinforced concrete.

An area of hardstanding measuring approximately 20 by 30 metres proposed for crane standing during the construction and decommission stages is required. It is intended to remain in place during the life time of the turbine and will be left to grass over.

A temporary construction compound is proposed adjacent to the access, which is required for the storage of materials, plant and welfare equipment during the construction period only.

A single-storey mono-pitch switchgear-house is also proposed measuring 5 metres in length, 3 metres in width to a maximum height of 3 metres.

During the course of the application, the following additional information has been received:-

- a) Additional photographic materials showing the Churches of Norton Juxta Twycross and Austrey and the Sir John Moore's School at Appleby Magna
- b) Addendum to Landscape and Visual Assessment incorporating an update upon cumulative impact and viewpoint analysis, additional appraisal of the Upper Mease Landscape Character Area and safety details, explaining when the turbine automatically shuts down.

Re-consultation was undertaken with English Heritage.

The application is submitted with a series of plans referred to as indicative. The applicant has confirmed that this turbine's height and scale for the purposes of this application is only a candidate (sample) turbine, as the exact model of the wind turbine to be used at site would be decided through a future tendering process as such this application seeks consent for a turbine up to a maximum of 79 metres in height.

#### The Site and Surrounding Area

The immediate landscape is characterised by arable farming land, hedge-lined fields and scattered trees. There is an existing byway to the east of the application site called Roe House Lane and to the east of that, the A444. This area is separated by fields, hedges and a triangular shaped parcel of land which has mature tree planting.

Elms Farm, in the ownership of the applicant is located to the northeast of the proposed turbine at a distance of at least 600 metres. The nearest other residential property would be Hill Farm located to the north west of the proposed turbine at a distance of approximately 680 metres. Norton House farm is located to the south east of the proposed siting of the turbine at a distance of approximately 1km.

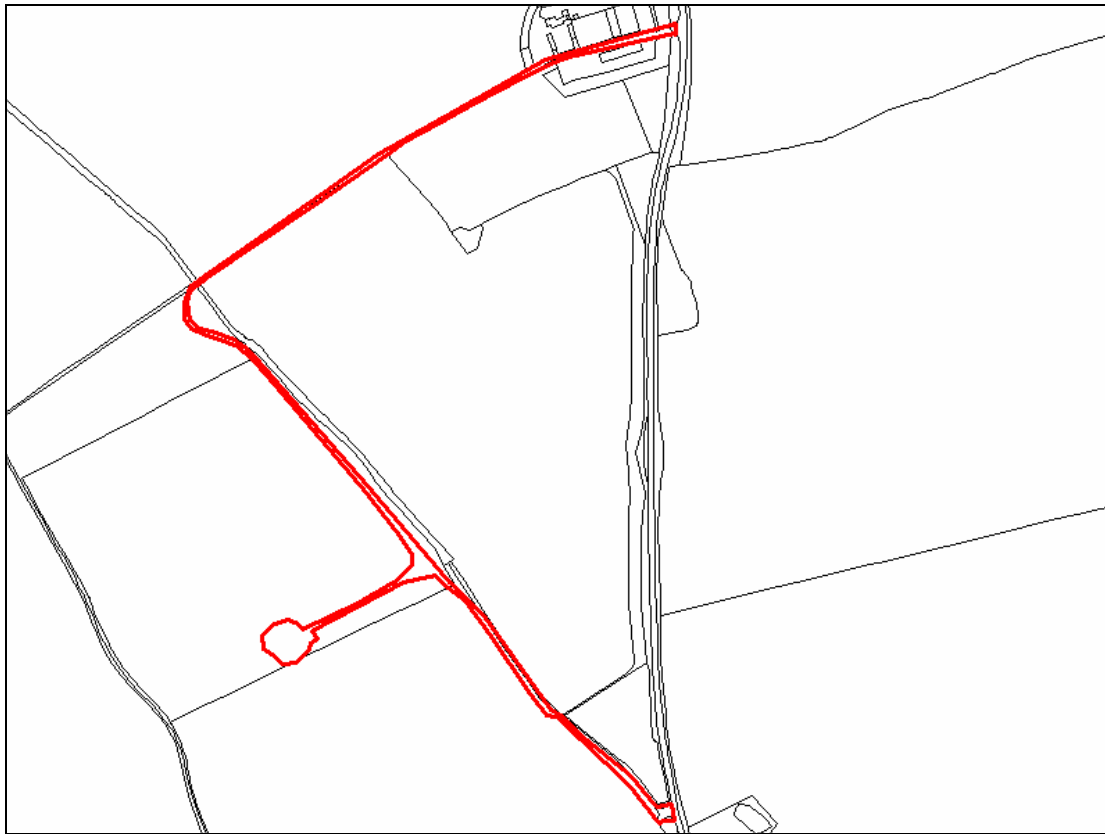
The application site lies outside of the current settlement boundary of Twycross, as defined on the Proposals Map of the adopted Local Plan and is therefore within an area designated as countryside. The land is located to the north west of Norton Juxta Twycross and to the south of Appleby Parva, the latter of which is located within the district of North West Leicestershire.

#### Technical Documents submitted with application

Design and Access Statement  
Planning Policy Statement  
Environmental Report  
Photomontages

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

None relevant.



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### **Consultations:-**

No objections have been received from:-

Severn Trent Water Limited  
Environment Agency  
NERL Safeguarding  
Ministry of Defence  
Joint Radio Company  
Natural England  
English Heritage  
Directorate of Chief Executive, LCC (Ecology)  
Director of Chief Executive, LCC (Minerals)  
Director of Environment and Transport (Rights of Way)  
Head of Community Services (Land Drainage)  
The Council's Conservation Officer.

No objection subject to conditions from:-

East Midlands Airport  
Director of Environment and Transport (Highways)  
Director of Chief Executive (Archaeology)  
Head of Community Services (Pollution).

Site notice was displayed and neighbours notified.

The 141 letters of objection are summarised as follows:-

- 1) ugly Intrusion into the open countryside; total alien/out of character to surrounding landscape; blight on the countryside for generations; located in one of the few relatively unspoilt rural landscapes in the area
- 2) highest point around so will be very prominent; dominating the skyline for miles around
- 3) the turbine would potentially result in significant changes in the view for some residents up to approx 3.2 km from the turbine; believe that the adverse impact will exceed 5km from the proposed site
- 4) part of the National Forest and this should be protected for future generations
- 5) more than 8 times larger than the size of an average home
- 6) this is an area of natural beauty and historic interest
- 7) is a change of use from agricultural land to industrial development
- 8) loss of view
- 9) will create far greater impact than a static structure
- 10) overshadow the valleys below it
- 11) the applicant has considered views which are totally irrelevant; not enough attention have been given to the views from the Atherstone/Corley Ridge, which extends as far as Charnwood Forest, as such there are other historical interests that are likely to have a view of the proposed turbine; the applicant has selected 8 viewpoints which have been selected in isolation having no consultation with local residents and which do not fully represent all potential visual receptors
- 12) alternative siting and scale should be sought
- 13) no consideration of impacts upon Warton, presumably because the agent recognised the overwhelming change it will cause to the rural hillscape; The developer has dismissed the impact on the village of Warton
- 14) the applicant has assessed the incurred character assessment; the Lavender Test has been applied which originated from a planning appeal and not a LPA planning decision this application will be decided by the LPA by applying its own policies
- 15) would be seen as far as Tamworth and the outskirts of Leicester
- 16) highly visible, detract from a very rural vista spoiling what is a restful and green landscape
- 17) the turbine at 79 metres high is stated by the applicant to be a medium height turbine – it is actually 2/3 of the height of the largest 125 metre turbines currently being installed
- 18) the fact that there is a nearby structure (the BT tower) is immaterial, and it being an already established structure does not set a precedence for other, similar developments
- 19) poor design
- 20) it is not plausible to suggest that a wind turbine, whatever its colour, can possibly blend into the skyline
- 21) a thorough and broad location search was undertaken in order to correctly identify sites that are not in sensitive locations – a copy of this search should be requested given the impacts upon a sensitive area
- 22) given that NWLDC and NWBC have specifically requested the parish councils and neighbours are notified within their boundaries then this clearly demonstrates the influence the application has upon residents in adjacent administrative areas. As such the relevant planning policies of each adjacent authority must therefore be a material consideration of this application
- 23) the proposal is not allowed under the ENV1 local plan for the area – it does not protect or enhance the landscape
- 24) if the Council's core strategy and green infrastructure documents are to mean anything, the Council must reject this application
- 25) fails to meet the key criteria for development in the countryside, contrary to Policy NE5. Policy NE5 – which requires development not to have an adverse effect on the appearance or character of the landscape

- 26) contrary to NPPF; the development does not demonstrate a balance between the core elements of sustainable development; £2,000 to the local community does not, contribute in any meaningful way to fulfilling the economic role, identified in the NPPF. The proposal, by neglecting the community's needs, fail to satisfy the social role specified in the NPPF
- 27) contrary to the development plan
- 28) running against the rural grain of the Local Character Assessment
- 29) detriment to the Conservation Area
- 30) in a greenbelt
- 31) many surrounding villages and hamlets can be seen, each with its church spire providing a beautiful and historic vista
- 32) not against the principle of wind turbines, but they have to be located in appropriate areas
- 33) no clear evidence that erection of such a massive device gives benefits that outweigh the natural view of the British countryside
- 34) affect the historic landscape setting by introducing massive, intrusive, industrial forms out of scale and out of keeping with historic buildings, field patterns and views
- 35) close to the historic dwelling of Sir John Moore
- 36) detriment to Listed Buildings; 14 Grade II Listed Buildings and a Grade II\* Church, this is sensitive cultural heritage receptor; Due regard to the protection of the setting of Historic Assets such as St. Edith's Church and St. Nicholas Church as well as other church whose spires dominate the scene has not been and cannot be demonstrated by the introduction of such an alien feature in the landscape and therefore falls contrary to the NPPF
- 37) Archaeological implications of constructing close to an ancient salt road; wealth of historic information and artefacts in close proximity; many footpaths can be traced back to Roman times and beyond offering possibilities of significant historical finds; other councils place importance upon their Salt Ways
- 38) committee should ensure an archaeological survey was carried out; a proper archaeological study should have been undertaken and findings assessed prior to the application being submitted
- 39) large eye catching structure location close to the A444 and next to a very dangerous corner; and would be visible from Austrey to Orton on the Hill; The road near this location has had numerous fatalities and is not notorious for speeding vehicles, especially motorbikes; road has many bends and ditches; the LPA has take little action to reduce accidents on this road and should not therefore grant permission on anything that may further compound this problem; similar incidents have occurred –in German 9 distraction road traffic fatalities occurred between 1997 and 2003
- 40) if the turbine is working during road or snow it must affect the road?
- 41) advice should be obtained from the relevant road safety experts
- 42) four key elements should have been considered prior to the application being submitted for consideration: potential for visual distraction should be minimised; sites where the view of the turbine until the last minute be avoided; should not be located where motorists need to pay particular attention to the driving task; existing accident records and types of accidents occurring near the proposed wind turbine should be analysed
- 43) the LPA has a duty of care here to current and future road users and pedestrians/ramblers etc
- 44) an existing turbine visible from the Ashby Road on the way from Tamworth to No Man's Heath is extremely distracting which is located away from the road, this is to be sited closer to a road and so will be even more distracting; turbine would only add to distraction to road users, interrupt their concentration and could cause accidents
- 45) distraction caused by sunlight/shadow flicker
- 46) inadequate access

- 47) increase in traffic during construction – also causing disruption, pollution and increased danger
- 48) the construction phase would last approximately 12 months and would involve deliveries of huge quantities of materials potentially 25-30 truck deliveries a day as well as larger vehicles delivering turbine sections
- 49) adverse impact on birdlife, bats and endangered species; impact upon bird flight paths and natural behaviour; migrating birds could possibly fly into the rotating blades and also any wire struts keep the turbine stable; danger to large water birds
- 50) population of birds of prey using the thermals on the hills and a turbine will disturb them with their noise and will be the possibility of physical harm from rotating blades; has an independent search for badger sets been undertaken?
- 51) buzzards have returned to this area in the last 15 years and curlews are known to breed in Austrey Meadows; wild geese and heron fly the area
- 52) noise will be to the detriment of farm animals
- 53) loss/damage to trees
- 54) located in a military low flying area with moderate level of microlite activity in the area for which this turbine could present a significant danger
- 55) there have also been over the years many cases of the use of the police helicopter and air ambulance in the surrounding area and villages and this development would pose a danger to the future of these services
- 56) it would be sited by and immediately adjacent to well used footpaths; will spoil recreational enjoyment
- 57) very close to a number of well used public rights of way and a permission path – will this be closed? Will be ruined and destroyed for families, dog walkers cyclists; sightseers, walkers, picnickers, runners, horse riders, para-gliders, balloonists and light aircraft
- 58) the turbine would spoil the walk in the countryside and views across Warwickshire to the west and Charnwood Forest to the east
- 59) very popular caravan club site in the area which has direct views onto the proposed site – what affect would this have on its popularity?
- 60) the noise generated by day and night would be considerable and have an effect on Twycross Zoo – a popular tourist attraction; possible distress to animals at Twycross Zoo
- 61) noise generated would be considerable for at least 2 km around the site; peace and quiet is one of the most important considerations when choosing where to buy a house
- 62) new research in Denmark has shown that subliminal noises and sound waves are very harmful
- 63) create noise by day and by night, thereby reducing the peaceful character of the area to the detriment of local residents
- 64) will everyone in the surrounding villages be compensated for noise pollution?
- 65) nuisance in general; noisy and obtrusive; Noise pollution from the rotating blades
- 66) significant noise problem with wind turbines which will affect local people and wildlife sunlight flickering on the rotating blades
- 67) enormous amount of power from the Council investigating alleged noise nuisances for years to come (Environmental Protection Act)
- 68) overshadowing/overbearing impacts; oppressive and overwhelming my property
- 69) construction will cause noise, dust, smell and exert other emissions
- 70) the proposal contravenes my human rights to peaceful enjoyment of my property and respect for my private and family life (The Human Rights Act 1998)
- 71) the turbine will be in direct alignment with the village primary school and pre-school, what assurances are there that children's day to day learning, PE lessons outside and health and well-being will not be adversely affected by the local frequency noise generated by the turbine?
- 72) possible adverse health implications

- 73) a past Report (March 2006) from the French Academie Nationale De Medecine, recommended that any construction of wind turbines over 2.5 MW capacity within 1.5 km of homes should be suspended immediately pending further research into the ill-effects of noise on human health
- 74) the UK Noise Association recommends that wind turbines are not sited within 1 mile of house
- 75) a number of other reports have outlined the health complaints linked to the stress of noise induced depression, anxiety, headaches
- 76) more detailed research on the effect of wind turbine is needed before they are put in such proximity to a quiet village and school
- 77) not able to support this application until it is proven that wind turbines are safe and will cause no medical harm
- 78) seen in the press that several turbines have broken, causing debris and that there is a significant risk of the blades throwing ice in the winter – especially a concern due to the proximity of the busy A444
- 79) potential health and safety risks for turbines collapsing
- 80) question the green value of wind turbines and long term costs; lack of solid evidence about the efficiency of wind turbines/farms; they are not as green as they would like us to believe and don't seem to be cost effective
- 81) the area chosen does not get much wind
- 82) valuable agricultural land in this area is needed for food production to avoid expensive imports
- 83) arguments in favour of wind farms are false; no significant economic benefit to the local economy; the environmental advantages of the proposed wind farm may be overstated
- 84) the applicant makes references to the view that wind turbines reduce CO2 emission – this left unchallenged could skew the argument on a very unstable premise and one that is now being seen as false and unproven
- 85) at a height of 79 metres, it is hardly small scale solution to the power requirements of one farm
- 86) the turbine will not be manufactured locally or the UK, will not use local labour or materials
- 87) need to update the National Grid for a turbine
- 88) wind turbines should be kept offshore or in remote parts of the country
- 89) wind energy is fashionable at the moment but extremely inefficient; evidence indicates that they may produce as little as 25% of the energy they are expected to produce
- 90) wind turbines only work in the wind, back up capacity is required from other sources; when existing power stations have to ramp up and down or come off and on to balance the intermittency of wind energy, the co2 emissions increase and so do costs; the applicant claims that the wind turbine will save approx 550 tonnes of carbon dioxide emissions every year which is inaccurate on several levels
- 91) white elephant policy
- 92) money should not be squandered at a time of economic hardship
- 93) costs more to install and run that it will save in natural resources; adds between £60-£70 onto an annual electricity bill
- 94) German consumers pay 60% more for electricity than we do and Danish consumers are even worse off, paying twice as much as their UK counterparts
- 95) American wind turbines are rusting away as subsidies have been removed
- 96) industrial scale development designed to take advantage of government initiatives to generate not green energy but money for companies and landowners
- 97) how much power is provided? Has it been tested?
- 98) Department of Energy report by M McDonald and statistics UK Electricity Generations cost update 2010 it is apparent that the excessive cost of wind generated electricity on land or sea are un-sustainable in comparison with nuclear, gas or coal systems

- 99) the applicant has sought to justify the application under the emphasis for increasing the amount of renewable energy and in doing so has used misleading and outdated arguments and the UK energy market and government relates policies are changing
- 100) the applicant makes reference to the 2007 UK Government White Paper which was superseded; the 2011 White Paper recognises the uncontrolled and uncoordinated expansion of wind energy which has created an increasingly insecure electricity system; Government is still reviewing the Energy Reform Bill – it is by no means certain that decision makers will be required to give such significant weighting to renewable schemes
- 101) the applicant is clearly overstating the case for carbon savings
- 102) the 500 kw capacity is far too large and oversized for purely farm use – is commercial venture
- 103) the generation of electricity by wind turbines is one of the most expensive ways to make electricity; Not an economical answer to future energy demands; such a development is unlikely to solve any energy gap or even significantly reduce the usage of fossil fuels
- 104) Modern Gas Fired Power Stations make it seem like an un-necessary option
- 105) large seams of coal underground still which could help further employment
- 106) only pleasing foreign interest, selling all our assets to foreign counties
- 107) the need for energy can be met on a very local basis with each household producing what they need individually at the point of use, which would blend in with our rural landscape, the proposed turbine is out of proportion to the local need; the applicant should plant trees along the miles of roadsides bordering his land and on farm tracks instead of this development; Elms Farm has several Industrial units which could have solar panels on their roofs
- 108) should be looking at using waste instead of land fill, should be pursued rather than wind farms or nuclear power; solar has been tried and tested and works
- 109) adverse impact on TV reception and may also affect radio and mobile phones
- 110) by adversely affecting the amenity value reduces property prices and saleability of local houses
- 111) what happens when the life span has ended? Will we be left with a permanent redundant eyesore?
- 112) inadequate drainage
- 113) approval will be a mockery of the planning system
- 114) will set a precedent for further wind turbines
- 115) are we to have a second National Forest (of ugly wind farms) in the vicinity?
- 116) two other wind turbines in the vicinity, neither of which appear to function, so are already obsolete
- 117) an application to erect a meteorology mast has already been rejected by North Warwickshire Borough Council
- 118) the comments raised at the refusal of the meteorology mast should be given weight in this application
- 119) this is the same applicant as that for the eight or more turbines between Orton and Austrey, which turned down the application for a met mast
- 120) the cumulative impact of the wind turbines has not been given sufficient attention; the proposed turbine and the one at Fields Farm would be read together from vantage points along the A5 – this one already dominate the landscape
- 121) number of other turbines in close proximity/refused/or being proposed – this together with the planned route for the HS2 SPUR to Manchester which is planned to run adjacent to Austrey along the route of the M42 would “rip the hearts out” of the community
- 122) energy companies are trying to steam roller LPAs on wind turbines, making so many applications on the basis that one will slip through and become the Trojan horse
- 123) a recent court case in a judgement handed down at the Administrative Court, backed by the local councils and conservation groups in rejecting the plans of Sea Land and



Power Ltd. Great Yarmouth Borough Council and the Planning Inspectorate rejected the wind farm, finding that further turbines in the area would threaten its character and natural beauty

- 124) under the Localism Act 2011, local communities are being urged to become more involved in local decision making and taking control of their communities, rejecting this application would be a clear way of recognising the real impact communities should be able to have on decisions that affect their environment, the NPPF puts great weight on the opinions of the local community; the applicant chooses to claim that 66% of respondents in the UK are in favour of wind farms, which is irrelevant to the planning application; the applicant feels that national statistics should in some way overrule the opinions of the local community
- 125) a bribe of £2,000 to Austrey cannot mitigate its constructed
- 126) how can you spread £2,000 between Warton, Norton Juxta, Austrey and Measham?
- 127) No objection to farmer erecting a small domestic turbine to supply personal electricity – this is totally unreasonable
- 128) the whole wind turbine ‘fashion’ is a misguided and misleading government policy which needs serious re-consideration
- 129) the turbine is within metres of the North Warwickshire boundary and residents opinions there should be taken into consideration
- 130) no consultation has been undertaken with the residents of Warton, who will suffer the most; applicant is trying to sneak the application through with minimum fuss and consultation
- 131) delay decision on the application until the debate in government is ended; no additional wind turbines should be approved until the Government has completed the study and published its policy
- 132) John Hayes says enough is enough
- 133) Nick Boles is expected to direct that in future more weight should be given in planning decisions to local community feeling
- 134) if comments are not taken into consideration we will be in a totalitarian state, not a democratic one
- 135) public meeting is required
- 136) size should warrant a much more thorough consideration and possibly a full environmental impact assessment
- 137) site visit essential by planning committee as the site has been misrepresented
- 138) application on the border and a site visit by planning committee is essential for the application to be taken seriously, and recognise the important of the site’s natural beauty which would be seriously destroyed
- 139) site visit should include driving around the local area to a radius of at least 10 or more miles away as will be visible from such a distance; should include the village of Austrey; view points from North Warwickshire. Planning committee should investigate the vastly increased traffic required to construct this structure on what is an already fast and dangerous road.

Two letters of support:-

- 1) the position seems ideal, situated at a high point for maximum wind capture
- 2) the area is not an area of exceptional natural beauty – it is a fairly non descript farm land next to a main road
- 3) wind turbines enhance the skyline, they are attractive
- 4) a turbine is a distinctive land mark but across the UK and France there are many close to the road and is not seen as a danger to traffic to the A444 in this case; the wind turbine on the A5 near DRIFT have not, as far as aware caused any accidents
- 5) Archaeological concerns are un-necessary as only a small section of the area is being lost – and not aware of any excavations on the Salt Road to date and the proposed site is some distance from the route of the Salt Road

- 6) a sustainable source of power for the future is needed and should support such projects rather than campaigning against them
- 7) the footprint of the development is relatively small and concrete bases can be easily removed at the end of the life of the turbine
- 8) would prefer to have wind turbines rather than a nuclear power station in the landscape
- 9) would rather pay more for electricity generated from the wind than from less sustainable sources
- 10) must be developed to try to understand how we can utilise natural resources in a time of ever increasing energy needs and depleting natural resources
- 11) see a future when nuclear energy is supplemented by wind, solar and wave power
- 12) what else can we do to ensure that there is a planet for our descendants to enjoy?
- 13) 'Yes please, and in my backyard'.

North Warwickshire Borough Council raises no objection to the proposal, recommending that the application be determined in accordance with HBBC's development plan with regard to the NPPF and any other material considerations.

North West Leicestershire District Council has no objection subject to consideration on the following matters:-

- 1) that Hinckley and Bosworth Borough Council completes a Habitat Regulations Assessment which can demonstrate that the proposed development would not have a detrimental impact on the integrity of the River Mease Special Area of Conservation; either alone or in combination
- 2) it should be considered as to whether the Technical Guidance which supplemented the former PPS22 still carries weight in making planning decisions
- 3) that cumulative assessment includes applications for wind turbines, and pending applications within North West Leicestershire
- 4) that Hinckley and Bosworth Borough Council are aware of the concerns of the Council's Conservation Officer and have given full consideration to impact on nearby listed buildings and their settings.

Appleby Magna Parish Council raise the following objections:-

- 1) positioned on a high ridge and will dominate the skyline combined with height of 79 metres will have a significant impact on the outstanding and unspoilt countryside and detract from visual amenity; its position will adversely affect a rural area of exceptional natural beauty
- 2) it would be sited by and immediately adjacent to well used footpaths; will spoil recreational enjoyment
- 3) noise of rotating blades will result in a loss of amenity
- 4) proximity of large moving structure to A444 will present an added danger for road users, sudden disruption in driver's line of vision can only add to an already dangerous situation
- 5) Archaeological implications of constructing close to an ancient salt road; wealth of historic information and artefacts in close proximity
- 6) precedent for future development; which can be evidenced by the rise in wind farm activities at Austrey and Chilcote
- 7) insist that a site visit is made by planning committee as the site has been misrepresented by the applicant
- 8) the height of the turbine and the rotating blades could have a detrimental effect on the wildlife, particularly birds
- 9) grossly expensive, highly subsidised and inefficient method of electricity production at a time of economic hardship
- 10) Significant loss of amenity.

Austrey Parish Council raises the following objections:-

- 1) will be sited on one of the highest points in the surrounding area and will be seen from miles away
- 2) there are no similar industrial structure to be seen in what is considered to be an area of exceptional natural beauty and the mast would detract from the current unspoilt views
- 3) request that the planning committee involved in the application visit the proposed site before any decisions are made
- 4) granting the application could set a precedent for other similar applications.

Newton Regis, Seckington and No Man's Heath Parish Council raise the following objections:-

- 1) highly un-suitable location as the site is in an area of outstanding natural beauty, admitted by locals and visitors alike
- 2) would dominant the skyline
- 3) the site is a haven for wildlife
- 4) would reduce the number of animals and birds making their home there and endanger the ones currently living there
- 5) set a precedent
- 6) site would be visible from neighbouring parishes and would affect others, not just horses neighbouring the site
- 7) site visit made by the planning committee as a matter of urgency.

Polesworth Parish Council raises the following objections:-

- 1) siting on a ridge that is one of the highest points in the district will result in the mast dominating the skyline for a considerable distance and damage the visual impact on nearby communities
- 2) managed farmland which is increasingly rare and as such the locality may be considered to be an area of significant beauty
- 3) lasting and adverse effect on the natural and visual quality of the area.

Twycross Parish Council raises the following objections:-

- 1) the applicant has failed to consider the turbine against the Upper Mease character area and therefore has not considered the distinctive features within the area
- 2) the character area states that it is a distinctive sensitive character derived from elevated expansive landscape and panoramic views, and the erection of a tall industrial structure in this elevated position will have a detrimental impact on the landscape
- 3) there is no benefit to the landscape and it clearly fails to meet the criteria that it would not have an adverse effect on the appearance or character of the landscape
- 4) the applicant has selected viewpoints to illustrate the visual impact, but without consultation with local residents and therefore do not represent a balanced judgement;
- 5) The position of the turbine will adversely affect a rural area of outstanding natural beauty and will dominate the skyline for miles around
- 6) walking, cycling and driving is undertaken as part of resident's informal recreation and a tall moving structure would draw attention away from the pastoral setting
- 7) Orton on the Hill Conservation Area residents would have a clear view of the turbine which would detract from the views of the historic buildings identified
- 8) no consideration to the safety of motorists using the A444; the sudden view could distract motorist and lead to an increase in accidents

- 9) the Highways Agency Spatial Planning advice note 12/09 includes comments on the siting of wind turbines near carriageway and comments do not appear to have been asked on this aspect
- 10) no benefit to the local community, electricity prices for local residents will not decrease and applicant cannot guarantee surplus electricity would be used by local households
- 11) no attempt to consult with local residents, contrary to the spirit of the NPPF
- 12) agreeing to this application may set a precedent for future development
- 13) a site visit is essential for planning committee.

David Tredinnick MP for Bosworth raises the following objections:-

- 1) visual intrusion into open countryside; 79 metre high construction on a high ridge would dominate the area for miles around having a detrimental effect on the visual amenity of users of the local lanes, footpaths and Twycross Zoo; contrary to the Landscape Strategy and Policy NE5 aims to protect the open character of the area
- 2) road safety; distraction to drivers on the road network, clearly the potential for serious accidents as a result of even minimal driver distraction on the A444 and its feeder roads within range of the application site
- 3) important health issues; growing body of research, particularly children – the potential harmful effects of exposure includes photosensitive epilepsy, sleep loss, noise and increasingly agreed that a safe distance between wind turbines and residential properties is 1.5 to 2 miles which is not the case
- 4) negative impact upon tourism and local amenity; the site is important to tourism and the development of the rural economy, significant visual effect upon local rights of way, walkers, horse riders, cyclists and pursuers of other rural activities and proximity to over 1000 animals at Twycross Zoo
- 5) the concerns around health, wellbeing, road safety, impact on the countryside and quality of life issues, in addition to growing scepticism about the positive contribution it is claimed inshore wind turbines make in environmental terms. Given relatively low generating levels, along with the growing body of evidence about the detrimental impact upon traditional generation methods, it is difficult to argue that this is in anyway a sustainable proposal
- 6) statements made in Whitehall this week indicate that the Government is re-assessing policies in respect of onshore wind power
- 7) despite limited consultation a significant number of local residents have objected and planning committee should visit the site.

Dan Byles MP for North Warwickshire and Bedworth raises the following objections:-

- 1) visual intrusion into the open countryside; sited on a high ridge, it will dominate the area for miles around and will affect the visual amenity of those people who use the old Salt Road, the footpaths and the lanes
- 2) negative impact this structure will have upon the livelihoods of the residents of the area in terms of house prices and difficulty to sell houses as the height noise and visibility of the development may deter people from buying
- 3) Road safety on the A444 caused through distractions.

Christopher Pincher MP for Tamworth raises the following objections:-

- 1) inefficient at producing energy, economically unviable without significant subsidy and often out of keeping with the local landscape
- 2) this turbine will affect the vistas of many of my constituents and impact upon local property values
- 3) support David Tredinnick MP's objections.

County Councillor Ould raises the following objections:-

- 1) gross visual intrusion into open countryside; there is no way that a 79 metre high wind turbine will not intrude into an area of open countryside located as it is within the Upper Mease Character Area H
- 2) high degree of sensitivity within the character area and should protect the distinctive open character - this would be undermined if a visually intrusive object is installed; will demote the panoramic vista, not enhance it
- 3) applicant has ignored the landscape strategy
- 4) absence of reference to the Highways Agency Spatial Planning Advice Note 12/09 – ignored by applicant and County Highways Planning Department
- 5) given that visual intrusion is itself a reason for refusal, it is considered that the issues of Highway Safety have not been given the importance it deserves. There is evidence in Germany that a single turbine has caused nine fatalities
- 6) effect on the safety on the A444 caused through distractions – Highways are not refusing the application due to costs at appeal
- 7) contrary to Policy NE5
- 8) viewpoint analysis states that the proposed turbine would potentially result in a significant change in the view from some high sensitivity receptors up to 3.2 km – impact upon Little Orton, Norton Juxta Twycross and residents in North Warwickshire
- 9) insufficient exhibitions
- 10) applicant has underestimated the visual and noise impact
- 11) impact upon rights of walkers, horse riders and cyclists
- 12) impacts upon tourism
- 13) North Warwickshire would be affected by the development and policy ENV1 is a stronger policy
- 14) in Denmark there has been a move to refuse on public health grounds; If low level noise can cause human health problems, what can it do to animals- animals of Twycross Zoo could be detrimentally affected and tourism subsequently decline
- 15) Members should make a site visit and explore the surrounding area from a range of views/all surrounding villages.

Councillor Morrell raises the following objections:-

- 1) major impact on the appearance of the character of the area, contrary to policy NE5
- 2) no assessment of the wind in the area and as Leicestershire is considered to be the worst county in the country for wind, a proper report via test should surely have been needed
- 3) although there is a radio mast in the vicinity, this is over 40 years old and erected prior to landscape and countryside policies and should be discounted as evidence that a large tall structure has already been erected in the vicinity – if the radio mast had sought consent today it too would need to pass the policies and would have failed.

### **Policy:-**

#### National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Planning for Renewable Energy: A Companion Guide to Planning Policy Statement 22 (PPS22)

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

## Regional Policy Guidance: East Midlands Regional Plan 2009

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

## Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development  
Policy BE16: Archaeological Investigation and Recording  
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

Sustainable Design (SPD)

## Other Material Policy Guidance

The Landscape Character Assessment 2006

## Other Guidance

Kyoto Protocol  
Parsons Brinckerhoff Report March 2011

## **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 associated impacts.

## 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.

In response to North West Leicestershire District Council's comments on the status of the Companion Guide to PPS22, this such guidance still applies and as such affords weight in the determination of this application.

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 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 Twycross, 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 as a specific policy on wind power supersedes the requirements and constraints of criteria a-c of Policy NE5 in the case of wind farm development.

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.

Criteria a-c of Policy BE27 are 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.

In short, Saved Policy BE27 is generally supportive of wind power development providing that it is sensitively located, does not cause nuisance, is an appropriate distance from publicly-accessible areas and would not involve the erection of overhead power lines.

The accompanying Design and Access Statement refers to the fact that the turbine is likely to generate approximately 500 kwh per annum. As such the scheme will enable the applicant to contribute towards offsetting the carbon output of their agricultural operations whilst also making a contribution towards the regional energy targets set for onshore wind farms within the East Midlands.

The applicant has confirmed that the precise location of the proposed turbine has been selected taking into account a combination of factors, including wind resource information derived from desk-based assessment and environmental constraints such as ecological considerations and the location of existing residential development.

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 one 500 kw turbine would contribute to the overall outputs of renewable energy, whilst also bringing benefits to the existing farm and wider rural community, 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

As discussed earlier in this report the application site in policy terms lies outside of the defined settlement boundary for Twycross, and is therefore within an area designated as 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. 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 design criteria i-iv within Saved Policy NE5 remains generally relevant to development within the countryside and consistent with the NPPF. The Policy 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.

Saved Policy BE27 (criteria b) 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. Saved Policy BE1 (criteria a) of the Local Plan also requires development to complement or enhance the character of the surrounding area with regard to scale, layout, mass and design. Both policy criteria are considered consistent with the NPPF and as such should be given weight in consideration of this application.

### The Site

The immediate landscape is characterised by hedge lined fields and scattered trees. There is an existing byway to the east of the application site called Roe House Lane and to the east of that, the A444. This area is separated by fields, hedges and a triangular shaped parcel of land which has mature tree planting.

The levels vary within the application field. There is a slight rise in levels from the access towards the middle of the field where the land levels plateau and then slope down from the east to the west of the site. Land levels also rise gently from the proposed siting of the turbine towards the north of the site.

Land levels to the north of the site, in the vicinity of Hill Farm and Appleby Hill vary dramatically, and as the names suggest are located on a hill. As such the application field and adjacent fields sit significantly higher than that of land to the north.

There are other examples of tall structures within the landscape, within the vicinity. To the north of the site at Hill Farm there is a water tower amongst tall, mature landscaping and beyond that to the north at South Hill Farm is a telecommunications mast.

### Character Areas

Letters of objection have referred to the area being of exceptional natural beauty. For the avoidance of doubt the site does not fall within any specifically designated area of outstanding natural beauty or other similar national designations. Natural England state that the proposal does not appear to be either located within, or within the setting of, any

nationally designated landscape and are satisfied that the development would not have a significant impact on landscape or visual amenity.

Natural England, does however state that all proposals should complement and where possible enhance local distinctiveness and be guided by the landscape character assessment and policies protecting landscape character. At a more localised level, the Hinckley and Bosworth Character Assessment identifies the area as being the 'Upper Mease Character Area'. The capacity and sensitivity of this character is described as "An expansive rural landscape of generally high sensitivity. The elevated landform provides dramatic wide ranging views." It is therefore acknowledged that the character of the area encompassing Norton Juxta Twycross, Twycross, Little Orton, Orton-on-the-Hill and Little Twycross has been characterised as generally a distinctive sensitive character. As such careful consideration needs to be had upon the impact of the proposed turbine on this character.

During the course of the application the applicant has provided a description of the differences between the Mease Lowlands Local Character Area (LCA) and Upper Mease LCA concluding that the proposed turbine would potentially be visible from much of the Upper Mease LCA but that it would be variable with no clear visibility of the turbine from ground level within public areas of the villages of Twycross or North-Juxta-Twycross and from only the northern boundary of Orton-on-the-Hill.

In short, it is considered that whilst the site does not afford any specific protection through any national designation such as an Area of Outstanding Natural Beauty the general character of the area is one generally of high sensitivity.

#### Cumulative Impact

Cumulative impact may occur as a result of more than one scheme being constructed in a particular area and is defined as the combined effect of all the developments taken together.

The Cumulative Landscape Assessment originally took into consideration the one operational wind turbine within 10 km of the study area located approximately 7 km south of the site at Fields Farm, Grendon, and the two proposed turbines at Hogs Hill, 8.4 km northwest of the proposed turbine. The viewpoint analysis has taken into consideration both applications, confirming that they would be visible within viewpoints 5, 6 and 7 only. Viewpoint 5 analysis provided by the application states that the Hogs Hill turbines would be very distant and are expected to be screened by intervening vegetation, with viewpoint 6 stating that Hogs Hill turbines would be partially visible within the skyline and would not be particularly noticeable in the view, direction above intervening vegetation from viewpoint 7.

Following representations from North West Leicestershire District Council stating that the cumulative assessment should include applications for wind turbines within their district including refused, approved and pending applications, the applicant has provided an addendum considering another approved wind turbine application.

An application for a 30-metre- high turbine (45 metres to blade tip) was approved in August 2012 at Hill Farm, Willesley. The Hill Farm turbine was inputted and using a 60 degree field of view within a computer generated wireframe, has been assessed against the viewpoints provided for the application turbine. The only viewpoint potentially impacted upon as a result of cumulative impact would be viewpoint 6 from Orton on the Hill, as the Hill Farm wind turbine falls within the same 60 degree horizontal field of view as the proposed turbine; however it would lie beyond the horizon and therefore would not be visible from this location.

In respect of North West Leicestershire District Council's (NWLDC) request for additional turbines, including the potential for an application to be submitted to their authority for up to

eight turbines within this District between Chilcote and Stretton en le Field when a Scoping Opinion has recently been provided in respect of this proposal and an application for a wind monitoring mast was recently refused the applicant has provided a statement, justifying that this is not necessary as there is no cumulative assessment required for possible developments.

The applicant's statement states that there are no consents within the planning process relating to the site in question, and an application for planning permission to erect a meteorological monitoring mast was refused, as such the request falls outside of the Scottish Natural Heritage Statement guidance, which states that cumulative impacts should encompass the effects of the proposal in combination with existing development, either built or under construction; approved development, awaiting implementation and proposals awaiting determination with the planning process for which the eight turbine proposal is neither at this stage.

It is considered by the Local Planning Authority that whilst this is Scottish guidance, it is considered that the principles are applicable in the sense that it is not necessary to the determination of this application to consider the cumulative impact of a potential for a scheme for up to eight wind turbines, when that scheme for the turbines themselves have not been submitted to NWLDC.

It is considered that the scheme has taken into consideration the cumulative impact from three other wind turbine developments. The additional changes to landscape character and views from a visual perspective that would cumulatively arise in considering the closest approved wind turbine sites, are not considered to be of such a significant nature, to warrant resisting this proposal.

### Photomontages

Photomontages have also been provided from viewpoints to help aid the likely landscape and visual effects of the proposal. The applicant has confirmed that the view points have been selected to represent the more open views of the proposed wind turbine from a range of distances, directions and viewpoint receptor locations. The viewpoints have all been chosen within a 10 km radius of the proposed turbine.

For the avoidance of doubt it is not necessary for viewpoints to be taken from every single angle, and every single distance. The point of photomontage is to provide a visual aid and should ideally be taken from public vantage points, such as roads and footpaths to provide views from which the turbine would be visible to the public. The applicant has provided images from public vantage points as discussed below.

Viewpoint location 1 is taken from the byway near to Hill Farm from the north of the site, looking south towards the turbine. This provides a wireline view showing that the turbine would be visually prominent within the landscape.

Viewpoint location 2 is taken from the east of the site from a public right of way within North Juxta Twycross, beyond the A444, looking west toward the turbine. The predicted view shows that the turbine would be the most visually prominent feature in the landscape; however it would be viewed against the existing backdrop of trees and hedgerows.

Viewpoint location 3 is taken from the west of the site from Austrey from a public right of way and is looking east towards the turbine. The wireline and predicted view show that the upper part of the pole, and turbine blades would be visible over the existing hedgelines.

Viewpoint location 4 is taken from the north east from a recreational ground at Appleby Magna looking south towards the turbine. The wireline and predicted view show that the turbine from this location would not be visually prominent within the landscape as it would be screened and seen against the existing landscape backdrop.

Viewpoint location 5 is taken from the south east of the site from a public right of way in the vicinity of Twycross looking north west towards the turbine. The wireline view shows that the turbine appears subservient in scale in comparison to the landscape, which is filled with mature trees, hedgerows and telegraph poles and lines. This viewpoint also includes the location of the proposed turbines at Hogs Hill to illustrate cumulative visual impact.

Viewpoint location 6 is taken from the south/south west of the application site from a minor road in Orton on the Hill. The predicted view shows the turbine against the backdrop of mature trees and other existing infrastructure in the skyline.

Viewpoint location 7 located 4.8 km to the west of the application site, taken for a cross roads to the north of Seckington. There are again a number of other existing buildings that are visible in part, including a church spire and telecommunications mast.

Viewpoint location 8 is located due north of the application site approximately 6.5 km away from a residential cul-de-sac in Donisthorpe. The views from this distance show a number of existing landscape features and the turbine would not appear visually dominant within it.

The proposal for a single wind turbine in an agricultural landscape means that the impacts are generally expected to be more significant in close proximity to the site and reduce rapidly with distance. Up to 5 km from the site, the turbine would be visible from much of the area and in the 5 – 10 km distance band; the visibility of the turbine would reduce, due to topography and existing features such as trees, hedgerows and overhead powerlines.

#### Other Appearance Matters

The accompanying Design and Access Statement states that the colour and finish of the turbine is expected to be mid-grey in colour with a semi-matt finish in order to minimise potential reflection effects. It is considered that a turbine being smooth and sleek, with a non-industrial look with a colour which is proven to blend in with the sky and surrounding landscape results in reduced visibility both over mid and long range distances.

The applicant has confirmed that this application seeks consent for a turbine up to 79 metres in height and the information provided has been based on a worst-case scenario. As such, any future turbine that would be decided through a future tendering process could measure between 0-79 metres, but nothing above. The same is true of all other dimensions of the turbine.

To ensure that the turbine would not result in anything higher a condition is set to be imposed which sets out the maximum scale parameters of the turbine – a maximum of 55 metres to hub height, a maximum of 79 metres to blade tip and three blades measuring a maximum length of 24 metres per blade.

As such a further condition would then be imposed, which would require that a scheme securing the scale and external appearance of the turbine, once the tendering process was complete would be submitted to the Local Planning Authority, so that the final scale and design of the turbine would be considered.

For the avoidance of doubt, the exact siting of the turbine is not set to change through the future tendering process.

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 and that the wind turbine would be visible from certain viewpoints. It is also acknowledged that the turbine is undoubtedly more visually prominent from closer views, with the level of visual prominence reducing the further away from the turbine, with distance, topography, and existing features such as trees, hedgerows and overhead powerlines. However, the immediate rural landscape has already been subject to significant intervention by man in so far it is within close proximity to two other tall structures within the landscape to the north of the site. The visual impact also needs to be carefully balanced against the need for power generation and the central government support for renewable and low carbon technologies.

Within the landscape context it is not considered that the proposed turbine would result in any additional significant visual harm to the landscape over and above that already provided by existing structures that could be used to justify the refusal of the application. Given the location and scale of the turbine, combined with tree lined hedgerows and against the backdrop of existing landscape features would not overall have an adverse effect on the overall character of the landscape, nor will it significantly harm its quality or value. 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 it is considered that there would not be any significant detrimental impacts upon the dramatic wide ranging views, as stated within the character assessment to sustain or warrant a refusal of permission in this case.

The proposal is considered to be in accordance with Saved Local Plan Policies NE5 (criteria i-iii) BE27 (criteria b) and BE1 (criteria a) 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 historical and designated 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.

During the course of the application the applicant has submitted additional photographic materials relating to the visual impact of the proposed development upon the significance of the churches of Norton Juxta Twycross and Austrey and the Sir John Moore's School at Appleby Magna (all listed buildings). The additional photographic material addresses the need for such evidence to support the assertions made in the supporting documentation with regard to impacts upon the significance of historic assets.

English Heritage have confirmed that with regard to the two churches cited above the photographic material broadly supports the textual assessments put forward by the applicant, and in respect of the Sir John Moore's School the additional images submitted appear to demonstrate that there may be some limited blade visibility through the trees and

outbuildings at centre of shot, based upon height and angle estimation (and clearer views from upper rear windows as discussed in the applicant's report), but not it would appear substantial harm to the significance of the historic asset.

English Heritage therefore suggest that the visual impacts of the development should therefore be balanced by the council against its public benefits in line with the NPPF.

The application has been considered by the Council's Conservation Officer who has no objection to the scheme.

In summary, following consultation with English Heritage and the Council's Conservation Officer 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 central government guidance contained within the Companion Guide PPS22 and the overarching intentions of the NPPF.

#### Impact upon Archaeological Sites

Policy BE16 requires that the Local Planning Authority enter into a legal agreement or impose conditions requiring that satisfactory archaeological investigation and recording be carried out.

Letters of representation have referred to the proximity of the scheme to an ancient Salt Road and that there would be a number of historical artefacts.

The scheme has been considered by the Director of Chief Executive (Archaeology) who considers that there is a high potential for archaeological remains to be present on the site relating to the pre-historic pit alignment and the possible Roman road (Salt Lane) and as such recommend that a programme of archaeological work is undertaken, to be secured by a planning condition.

In response to the letters of representation the Director of Chief Executive (Archaeology) states that it is unclear within the objections if the concerns are in respect of physical or setting impact on the possible Roman Road, but given that the track is undesignated and no physical remains of a Roman predecessor to the track are currently recorded, it is considered that the recommended programme of archaeological work, as stated in the condition is sufficient to mitigate the effects of the proposed development in this case.

Such a condition is considered necessary and is suggested to be imposed.

In summary, the scheme, subject to the imposition of the suggested condition is considered to be in accordance with Saved Policy BE16 and the overarching intentions of the NPPF.

#### Impact upon Designated Landscapes

The application has been accompanied by an ecological assessment which has been reported within the submitted environmental report.

The scheme has been considered by the Directorate of Chief Executive, LCC (Ecology) who states the majority of the area to be impacted upon is arable land and whilst a small section of hedgerow will be removed for the access, this will be replanted after works have been completed.

In response to a letter of representation asking whether an independent search for badger setts has been undertaken the Directorate of Chief Executive, LCC (Ecology) has confirmed

that should a badger sett be found within 30 metres of the construction area then Natural England must be consulted on for advice and updated survey work then undertaken.

In relation to bats, Natural England does not object to the proposed development.

In terms of birds, Natural England are not able to conclusively comment on the impact of the scheme on birds, however the Directorate of Chief Executive, LCC (Ecology) agrees within recommendations in section 6.22 of the Ornithology survey that a barn owl box must be erected at a suitable location within the applicant's ownership, in addition to hedgerow or scrub planting.

Natural England have also requested that measures such as the incorporation of roosting opportunities for bats or for the installation of bird nest boxes and that the Local Planning Authority should consider securing measures to enhance the biodiversity of the site.

No formal request by either Natural England or the Directorate of Chief Executive, LCC (Ecology) has been made for these measures to be secured by condition and as such it is suggested that a note to application be added.

The Directorate of Chief Executive, LCC (Ecology) is pleased to see that the turbine blades are located over 50 metres away from the boundary features of the site as recommended in Natural England's TIN051 document and that there are no designated sites of ecological importance in the local area that will be impacted by the proposed wind turbine development.

#### Impact upon River Mease SAC/SSSI

The River Mease is designated as a Special Area of Conservation (SAC) which was designated in 2005. The River Mease SAC is a relatively un-modified lowland clay river and contains a diverse range of physical in-channel features, including riffles, pools, slacks, vegetated channel margins and bankside tree cover, which provide the conditions necessary to sustain national significant fish populations. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered, along with regard to national planning guidance in the NPPF.

During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The scheme has been considered by Natural England and the Directorate of Chief Executive, LCC (Ecology) in light of whether it is likely to have an adverse impact on the River Mease Special Area of Conservation (SAC).

In respect of foulwater, Natural England has confirmed that it will not object to small scale development such as this proposal where there is no planned foulwater discharge to the mains. The Directorate of Chief Executive, LCC (Ecology) has also considered the scheme and does not consider that there would be any impact on the River Mease, as the development does not involve any additional flushing toilets.

In terms of surface water run off, the scheme proposes an area of hardstanding for the crane, for the purposes of construction and de-commission, and as such will be present for the lifetime of the turbine and an access track. The submitted plan show a section through the access track showing a ditch to capture surface water, on both sides with compacted crushed stone incorporating layers of geotextile and geogrid where necessary.

Natural England have confirmed that they have no objection to the proposal, subject to the inclusion of soak always for all surface run off which they suggest to be secured by condition.

The turbine does not include any foul drainage discharge and given the nature of the turbine, it will not increase the level of surface water runoff from the site. However, the ancillary development may result in additional surface water run off and as such a condition is suggested to secure full details and mitigation measures to ensure that surface water does not enter the mains sewer.

In summary, given these circumstances it can therefore be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. Accordingly the scheme is considered to be in accordance with the overarching intentions of the NPPF.

### Impact upon Residential Amenity

Criterion 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.

Criterion c) of Saved Policy BE27 states that planning permission for wind farms 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. This is considered to have high consistency with the NPPF and as such affords weight in the determination of this application.

In response to the letter of representation stating that the UK Noise Association recommends that wind turbines are not sited within 1 mile of houses, there is no statutory distance between houses and turbines and this Authority does not have an adopted plan policy which requires a minimum distance.

### 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 guidance within the Companion Guide to PPS22 states that shadow flicker can be mitigated by siting wind turbines at sufficient distance from residences likely to be affected. Flicker effects have been proven to occur only within 10 rotor diameters of a turbine. Therefore, if a turbine has 90 metre diameter blades, the potential shadow flicker effect could be felt up to 900 metres from a turbine.

The wind turbine forming the basis of this planning application will have a blade diameter of 48 metre, thereby meaning that the turbines should be located a minimum of 480 metres from residences. Properties located either side of north relative to the turbine are outside of the 480 metre area. Given that the scale of this turbine proposes the worst case scenario there would be no additional impacts as a result of any future turbine.

Elms Farm, in the ownership of the applicant is located to the northeast of the proposed turbine at a distance of at least 600 metres away. The nearest other residential property would be Hill Farm located to the north west of the proposed turbine at a distance of approximately 680 metres away.

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 Policies BE1 (criteria i), BE27 (criteria c) and requirements within the Companion Guide to PSS22 are satisfied in this respect.

### Noise

Concerns have been expressed about noise from rotating blades and noise upon local schools.

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 Noise Impact Assessment which has been considered by the Head of Community Services (Pollution) who raises no objection to the proposal.

During the course of the application, the applicant has suggested a condition be imposed in respect of noise, which has been considered by the Head of Community Services (Pollution) who confirms that it is an appropriate condition as it provides more protection that would normally be provided through applying the ETSU-R-97 guidance, as it would also include night time operation. The condition would impose a maximum noise level at all times. An additional condition is also requesting, requiring the applicant to investigate any noise complaints, at the request of the Local Planning Authority.

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.

In summary, it is considered that the scheme accords within the provisions of Saved Policies BE27 (criterion c) BE1 (criterion i) and central government guidance contained within the NPPF and the Companion Guide PPS22 in respect of noise.

### Other Issues

#### Highway Considerations: Access, Distractions

The design criteria iv within Saved Policy NE5 states that the proposed development will not generate traffic likely to exceed the capacity of the highway network or impair road safety which is considered to be consistent with the NPPF and as such should be given limited weight in the determination of this application. 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.

Criterion c) of Saved Policy BE27 states that planning permission for wind farms and individual wind turbines will be approved where the structure is located, a minimum distance that is equal to its own height, away from any public highway or publicly accessible area. This criterion is considered to have limited consistency with the overarching intentions of the NPPF and as such should have limited weight in the determination of this application.

Numerous letters of representation has raised concern over the proximity to fast and dangerous roads and that any distraction to drivers causing lack of attention, given the size and nature of this structure that it would present an unacceptable risk of accident.

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.

In response to concerns raised by Twycross Parish Council that the Highways Agency and Leicestershire County Council do not appear to have been asked to comment on the siting of the turbine in context with the Highways Agency Spatial Planning advice note 12/09, this guidance has been produced by the Highways Agency and the Highways Agency are not required to be consulted on this application as the development is not located in close proximity to a trunk road. The A444 does not therefore need to be subject to advice for trunk roads.

In summary, the scheme has been considered by the Director of Environment and Transport (Highways) who raises no objection to the turbines from a highway point of view subject to the imposition of a routing condition for construction traffic. A condition to this effect is considered necessary.

#### Public Rights of Way

Letters of representation have raised concern over the proximity to footpaths and this will spoil rambling, dog walking, cycling etc and general recreational enjoyment.

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 scheme has been considered by Director of Environment and Transport (Rights of Way) who states that a Byway open to all Traffic Q4A named Roe House Lane to the east of the application site is located outside of the fall-over distance from the wind turbine and as such would not be adversely affected by the proposed development.

It is not considered that the siting of the turbine would cause any impacts upon adjacent footpaths to result in the footpaths no longer being used for walking, dog walking and general recreational enjoyment. For the avoidance of doubt no footpaths are proposed to be closed as a result of this development.

In summary, it is considered that the provisions of Saved Policies NE5 (criteria iv) and T5 and central government guidance contained with Companion Guide PPS22.

### Safety and Health Risks

Letters of representation have stated that some medical experts believe that wind turbines can cause any number of health issues and other letters have raised concerns over safety or people and animals.

In response to health risks paragraph 77 within the Companion Guide to PPS22 acknowledges that around 0.5% of the population are epileptic and that of these 5% are photo-sensitive, and of these less than 5% are sensitive to lowest frequencies of 2.5 – 3 Hz, and that a fast moving three blade machine would give rise to the highest level of flicker frequency which is below 2 Hz.

In respect of emission from a wind turbine, paragraph 65 within the Companion Guide to PPS22 states that turbines produce electromagnetic radiation which is at a very low level and presents no greater risk to human health than most domestic appliances.

As previously discussed in respect of low frequency noise (infrasound) paragraph 45 within the companion guide to PSS22 states that there is no evidence that ground transmitted low frequency from wind turbines is at a sufficient level to be harmful to human health.

In response to a letter of representation referring to the French Academie Nationale De Medecine Report in 2006 – this application is not a 2.5 MW turbine – it is a 500 kw turbine and this report carries no weight or policy basis in the determination of planning applications.

In relation to icing of the blades, the Companion Guide to PPS22 states that the build up of ice on turbine blades is unlikely to present problems on the majority of sites in England and that very few accidents have occurred and there has been no example of an injury to a member of the public and that experience indicated that properly designed and maintained wind turbines are a safe technology.

Paragraph 49 of the Companion Guide to PPS22 states that experience indicates that properly designed and maintained wind turbines are a safe technology and that the very few accidents that have occurred involving injury to humans have been caused by failure to observe manufacturers' and operators' instructions for the operation of the machines and that there has been no example of injury to a member of the public. Paragraph 50 goes on to state that the only source of possible danger to human or animal life from a wind turbine would be the loss of a piece of the blade or, in most exceptional circumstances, of the whole

blade. However it states that many blades are composite structure with no bolts or other separate components and therefore blade failure is most unlikely.

During the course of the application, the applicant has provided additional detail to confirm that in certain weather conditions the proposed turbine automatically shuts down, that it can turn so that it faces side on to the wind direction and can be monitored remotely.

Given that the impacts of potential noise and shadow flicker from the turbine has been assessed, based on a worst case scenario and no objections have been raised in respect of these impacts upon the closest residential properties it is not considered that such potential impacts would extend in distance to impact upon the animals at Twycross Zoo.

In summary, the guidance contained at a national level 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 or animals.

#### Environmental Impact Assessment (EIA)

A letter has queried the scale of the development and the need for an Environmental Impact Assessment. The proposed development was formally screened by Local Planning Authority in May 2012 in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to determine whether it constituted EIA development and if a subsequent Environmental Statement was required with any potential planning application that was to be submitted for consideration. Based on the information provided it was concluded that the proposed wind turbine was not EIA development and therefore an Environmental Statement was not required.

#### Electromagnetic Interference

Concerns have been raised over TV and mobile reception. It is recognised in the Companion Guide to PPS22 that wind turbines can potentially affect electromagnetic transmissions in two ways; by blocking or deflecting line of sight radio or microwave links, or by the 'scattering' of transmission signals. The scheme has been considered by the Joint Radio Company who has no objections based upon the known interference scenarios. As such it is considered that there would not be significant electromagnetic interference as a result of the proposed development.

#### Aviation

Concerns have been expressed by letters of representation that the site is located in a military low flying area with moderate level of microlite activity in the area for which this turbine could present a significant danger.

NERL Safeguarding, East Midlands Airport and the Ministry of Defence have no objections to the application, subject to the imposition of planning conditions.

East Midlands Airport has examined the scheme for an aerodrome safeguarding aspect and does not conflict with safeguarding criteria and therefore have no objection to the proposals, subject to the imposition of a condition requiring that the applicant notifies the Local Planning Authority within 1 month of the turbine commencing operation. As such a condition to this affect is considered necessary. In addition, the MOD has requested specific details of aviation lighting, which is subject to a planning condition.

There is no evidence presented to suggest that the use of the Police helicopter or air ambulance will be impacted up as a result of this proposal.

### Community Benefit

Concerns have been raised about no benefits to the local community. There are no requirements that a scheme should provide benefits directly to the local community in financial terms, but that there are benefits in a wider sense towards reducing carbon emissions on the site and contributing towards regional energy targets.

The applicant has, however within the accompanying planning policy statement that the company endorse approaches to providing benefits for the local community and have proposed an annual financial contribution of £2,000.00 a year for the lifetime of the project to the local community.

Such a request does not meet the tests of the Community Infrastructure Levy 2010 and such a fund should not be accepted by the Local Planning Authority or secured or drawn upon through the Section 106 process, however should the local community wish to request and draw upon the fund this would be a private agreement between the wind energy company and the local community.

### Precedent for Further Development

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

### Letters of Representation

In respect of other letters of representations received which have not already been addressed within the report above:-

A right to a view is not a material planning consideration.

For the avoidance of doubt the site is not located within Green Belt land or in a Conservation Area and is subject to the specific development plan policies of the Hinckley and Bosworth Local Plan, as such policy ENV1 is not applicable

De-valuation of property prices is not a material planning consideration.

Necessary conditions have been imposed which provide full details of de-commissioning works once the turbine has come to the end of its life span.

Other sources of potential energy generation at the application site and in general, are not subject to the planning application and therefore are not for consideration.

In the case where Great Yarmouth Borough Council and the Planning Inspectorate rejected a wind farm, this is an entirely different case and each case is considered on its own merits.

There are no mechanisms within the planning system to compensation surrounding villages against potential noise pollution.

In respect of comments raised by infringements on Human Rights, Article 1 of the First Protocol provides that a person is entitled to the peaceful enjoyment of his possessions. This right is not absolute and is subject to actions in the public interest and subject to conditions provided by law. Article 8 of the Convention Rights provides that a person has the right to respect for his private and family life and correspondence. Again it is not an absolute right and there are exceptions to the right where the interference is in accordance with the law and is necessary in a democratic society in the interests of inter alia the economic well-being of the country or the rights and freedoms of others. This Local Planning Authority is charged with determining planning applications and often has a balancing act to perform between competing interests. HBBC must act reasonably and in accordance with legislation policies and guidance.

In respect of the consultation and notification process, only those residential properties which adjoin the site are directly notified and given 21 days to comment and a site notice which was posted after the letters were sent out allows 21 days for any other interested parties to make their representations. In addition, during the course of the application both North Warwickshire Borough Council and North West Leicestershire District Council specifically requested that certain parishes and neighbours, falling within their administrative boundaries were consulted – these residents and parish councils were also given 21 days to make their representations.

A site visit has been undertaken to assess the potential impacts upon the locality and a site visit for committee members will be undertaken.

### 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 turbine would contribute towards offsetting the carbon emissions of the agricultural operations, 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 potential harmful impacts.

The scheme has been assessed from its landscape and visual impacts, impacts upon areas of historical and designated landscapes including the River Mease SAC, impacts 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 proposals are considered to be in accordance with Saved Local Plan Policies NE5 (criteria i-iv) BE27 (criteria a-c), BE1 (criteria a and i), BE16 and central government guidance contained within 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 a 500 kw wind turbine 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 own operations, to produce electricity from a clean and sustainable source for the applicant's 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), BE16, BE27 (criteria a-c) NE5 (criteria i-iv), and T5.

Local Plan 2006-2026: Core Strategy (2009):- Spatial Objective 12.

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

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

- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the following details: Site plan (Figure 2); Red Line Plan (Figure 2.2); Block Plan received by the Local Planning Authority on 20 September 2012.

Reason: For the avoidance of doubt, in the interests of proper planning and to define the siting of the development.

- 3 The overall height of the turbine shall not exceed 79 metre to the tip of the blades or 55 metres to the hub height, when the turbine is in the vertical position, as measured from natural ground level immediately adjacent to the turbine base. The blades of the turbine shall not exceed 24 metres in height and there shall be no more than 3 blades.

Reason: To define the scale parameters of the development, in the absence of detailed details and in the interests of visual amenity in accordance with Policies BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local plan 2001.

- 4 No development shall commence until a scheme for the detailed external appearance of the turbine including scale, materials, colour finish, aviation lighting and turbine foundations shall first be submitted to and approved in writing by the Local Planning

Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the absence of full details and in the interests of visual amenity in accordance with Policies BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan 2001.

- 5 No development shall commence until a scheme for the detailed external appearance of the switchgear house including scale, materials and colour finish shall first be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the absence of full details and in the interests of visual amenity in accordance with BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan 2001.

- 6 No development shall commence until a scheme for the detailed external appearance of the temporary construction compound including but not limited to scale, duration of requirement and restoration works shall first be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the absence of full details and in the interests of visual amenity in accordance with Policies BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan 2001.

- 7 No development shall commence until a scheme, incorporating drainage plans for the detailed access tracks and area of hardstanding shall first be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the development is provided with a satisfactory means of drainage to reduce surface water run off and impacts upon the River Mease SAC to accord with the National Planning Policy Framework.

- 8 No development hereby permitted shall commence on site until details of the routing of construction traffic has first been submitted to and approved in writing by the Local Planning Authority. During the period of construction, all traffic to and from the site shall use the approved route at all times.

Reason: To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan 2001.

- 9 No development shall commence until a programme of archaeological work including a Written Scheme of Investigation have first been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved Written Scheme of Investigation and the archaeological works shall be carried out by a suitable qualified body approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory historical investigation and recording to accord with Policy BE16 of the adopted Hinckley and Bosworth Local Plan 2001.



- 10 Written confirmation of the date of the first export of electricity to the grid from the wind turbine hereby permitted shall be provided to the Local Planning Authority within one month of the date of this taking place.

Reason: 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 to accord with the Companion Guide to PPS22.

- 11 Noise from the wind turbine shall not exceed 35dB(A) LA90 10 mins in wind speeds up to 10 metres per second as measured at the boundary of the curtilage of the nearest dwelling, at the date of the application of this condition. Wind speeds shall be measured at the turbine, standardised by reference to a height of 10 metres as described in ETSU-R-97 Page 120, using a reference roughness length of 0.05 metres. A log book or records shall be kept, which can be requested by the Local Planning Authority at any time.

Reason: To protect the amenity of residents in accordance with Policies BE27 (criteria c) and BE1 (criteria i), of the Hinckley and Bosworth Local Plan 2001 and requirements within the Companion Guide to PSS22.

- 12 Within 21 days from the receipt of a written request from the Local Planning Authority following a complaint to it regarding noise from the turbine, the wind turbine operator shall, at its own expense, employ an independent consultant approved in writing by the Local Planning Authority to assess the level of noise emissions from the wind turbine at the complainants property, in accordance with an assessment protocol agreed in writing by the Local Planning Authority. Details of the assessment and its results as to whether a breach of the noise limits in condition 11 of this permission has been established shall be reported to the Local Planning Authority as soon as the assessment is completed.

Reason: To protect the amenity of residents in accordance with Policies BE27 (criteria c) and BE1 (criteria i), of the Hinckley and Bosworth Local Plan 2001 and requirements within the Companion Guide to PSS22.

- 13 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 turbine hereby permitted, after which time use shall cease and the turbine and associated equipment shall be removed from the site in accordance with Condition 14.

Reason: The planning application has only been made for a 'life span' of 26 operational years to prevent unnecessary clutter in accordance with Policies BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan 2001.

- 14 Not less than one year prior to the expiry of this planning permission a Decommissioning Method Statement shall be submitted for the written approval of the Local Planning Authority. This shall include details of:-

- 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) The depth to which the turbines and ancillary equipment would be dismantled and removed from site
- d) The depth to which the turbines foundations shall be removed below ground level
- e) Works for the restoration of the site

f) Timetable of works.

The Decommissioning Method Statement shall be carried out as approved.

Reason: The planning application has only been made for a 'life span' of 26 operational years to prevent unnecessary clutter in accordance with Policies BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan 2001.

15 If the turbine, hereby permitted ceases to operate for a continuous period of 6 months then a Decommission Method Statement shall be submitted for the written approval of the Local Planning Authority within 3 months of the end of the 6 months cessation period. The scheme shall include details of:-

- a) Log book/records of operations of the turbine over the 6 month period
- b) Decommissioning and works for the removal of the wind turbine
- c) Decommissioning and works for the removal of all other ancillary equipment and structures
- d) The depth to which the turbine and ancillary equipment would be dismantled and removed from site
- e) The depth to which the turbine foundations shall be removed below ground level
- f) Works for the restoration of the site.

The Decommissioning Method Statement shall then be implemented within 12 months of the date of its approval by the Local Planning Authority.

Reason: To prevent unnecessary clutter in accordance with Policies BE27 (criteria b) and BE1 (criteria a) of the Hinckley and Bosworth Local Plan 2001.

**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 In relation to Condition 9 the Written Scheme of investigation shall include an assessment of significance and research questions and:-
  - a) the programme and methodology of site investigation and recording
  - b) the programme for post investigation assessment
  - c) the provision to be made for analysis of the site investigation and recording
  - d) the provision to be made for publication and dissemination of the analysis and records of the site investigation

- e) the provision to be made for archive deposition of the analysis and records of the site investigation
- f) timescales for the completion of the above
- g) nomination of a competent person or organisation to undertake the works set out within the Written Scheme of Investigation.

The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

- 6 Should a badger sett be found within 30 metres of the construction area then National England must be consulted on for advice and updated survey work then undertaken.

Recommendations in section 6.22 of the Ornithology survey should be carried out.

- 7 Tracks and hardstanding should be constructed in permeable paving like hardcore blinded with gravel, or similar.

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

**Item:** 03

**Reference:** 12/00815/DEEM

**Applicant:** Mr Robert Vaughan

**Location:** Langdale Road Hinckley

**Proposal:** ERECTION OF GARAGES ON SITE OF FORMER GARAGES

**Target Date:** 20 November 2012

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is an application by Hinckley and Bosworth Borough Council.

Application Proposal

The application proposes erection of two single garages and one double garage on land between 65 and 80 Langdale Road in Hinckley.

The single garages will be 2.6 metres wide and 4.9 metres deep. The double garage will be 4.5 metres wide and 5.5 metres deep. The garages will have mono pitch roofs with a height of 2.44 metres to the front elevations and 2.31 metres to the rear elevations. They will be constructed from concrete panels with a corrugated galvanised steel roof. The elevations will be rendered with pebble dash and will have white powder coated garage doors and white pvcu fascias and rainwater goods.

The garages will be sited to the south of the site. They will be positioned alongside the side boundary with no. 65 Langdale Road with a 1 metre gap between the rear of the garages and the boundary fence at no. 65.

The existing pedestrian footpath into the site is to be extended by approximately 5 metres alongside the garages.

The Site and Surrounding Area

The site is an area of hardstanding with a surfaced access from the roundabout junction with Langdale Road, Sunnydale Road and Brodick Road. The access runs between no. 65 and no. 80 Langdale Road. These properties are two storey semi-detached dwellings set at right-angles to each other. There is a pedestrian access to both sides of the surfaced vehicular access.

There is a height restrictive security barrier towards the entrance of the site and speed bumps within the site.

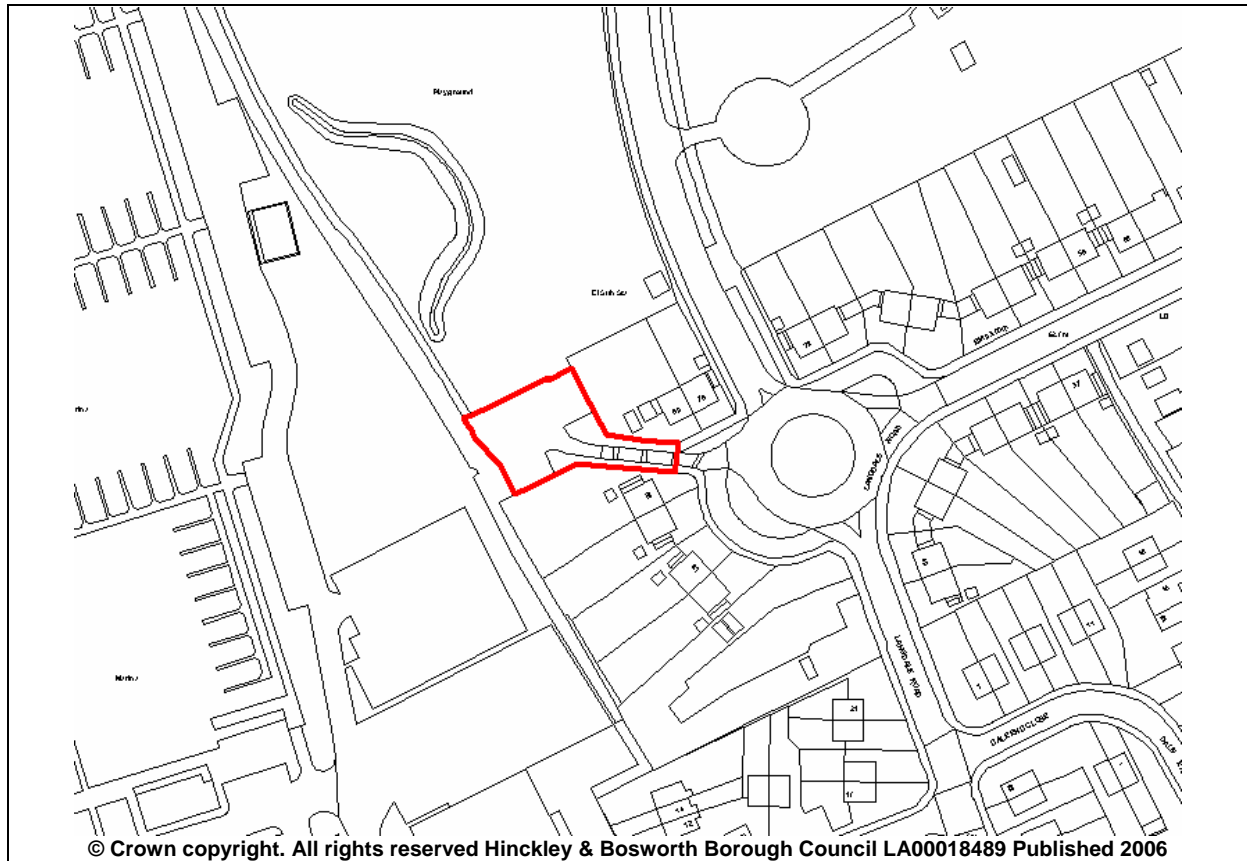
The property to the south of the garages, no. 65 Langdale Road, has a 1.8 metre high close board fence adjoining the site with hedge and tree planting beyond. There are grass verges and tree and hedge planting around the perimeter of the north-eastern and western boundaries. There is the marina development to the west of the site and an open grassed area to the north.

Technical Documents Submitted with application

The application is accompanied by a Design and Access Statement that advises that the site is currently used for car parking although it was previously a site of domestic garages until they were destroyed by vandals. It further advises that the existing planting around the site is to be retained.

**Relevant Planning History:-**

89/00198/4	Retention of garage (5 year temporary)	Approved	30.03.89
09/00650/DEEM	Residential development (Outline) on site to the south of application site	Approved	29.10.09
02/00099/UNBLD	Enforcement Enquiry		



**Consultations:-**

No comments have been received from:-

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

Comments have been received from:-

A local resident who, whilst not objecting to the proposed garages, wishes to ensure that the speed ramps remain in situ.

The occupier of the adjoining dwelling wishes to ensure that he can still access his fence for maintenance purposes.

**Policy:-**

Local Plan 2006-2026: Core Strategy 2009

None relevant.

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development (criteria a, g and i)

Policy T5: Highway Design and Vehicle Parking Standards

## **Appraisal:-**

The main considerations in respect of this application are the principle of development, siting and design and the impact on residential amenity.

### Principle of Development

The development is within the settlement boundary of Hinckley where there is a presumption in favour of development subject to consideration of all other planning matters. This is a previously developed site that is currently used for car parking and there is no direct conflict with the NPPF's presumption in favour of sustainable development. The proposals are for domestic garages in a residential area and the principle of development is considered acceptable.

### Siting and Design

The garages will be sited to the south of the site, alongside the side boundary of a residential dwelling. They will be set back behind existing dwellings and will not be visible from the street frontage. They will be visible from the open space to the north of the site but will be viewed against existing built form and the siting of the garages is not considered to have a detrimental impact on the open space or the wider residential area.

There is existing planting and grass verges around the site to the north and west. The garages will be sited to the south of the site where there will be no loss of perimeter landscaping.

The garages will be constructed of concrete panels and will be rendered with pebble-dash. Whilst the properties in the street are predominantly red brick, the garages are set to the rear of residential dwellings and the use of different materials will not have a detrimental impact on the street scene.

Accordingly, the garages are of an appropriate scale and design for this location and are not considered to have a detrimental impact on visual amenity and the character of the area.

### Residential Amenity

The garages will be sited alongside the side boundary of no. 65 Langdale Road. This neighbour has a 1.8 metre high close board fence with planting along the fence, within his garden area. At their highest point, the garages will be 2.44 metres. However, the rear section alongside no. 65 Langdale Road will be slightly lower at 2.31 metres and will be set 1 metre from the neighbour's fence. The garages will only be approximately 0.5 metres higher than the neighbour's fence and are not considered to be visually intrusive.

The garages will be positioned 15 metres from no. 65 Langdale Road and more than 20 metres from no. 80 Langdale Road and are not considered to have a detrimental impact on residential amenity.

### Other Issues

The area is already used for car parking so the proposals are not likely to generate a significant amount of additional vehicular traffic. An extension to the pedestrian footpath to the south of the access is proposed to enable cars to reverse without hindrance from cars entering the site. The Director of Environment and Transport (Highways) has no comments and the proposals are not considered detrimental to pedestrian or highway safety.

A neighbour has indicated that the speed ramps should be retained as these have been effective in reducing the anti-social behaviour problems previously experienced by residents from youths in cars. The applicant has confirmed that there are no intentions to alter the speed ramps.

The neighbour at no. 65 Langdale Road has indicated that he does not wish to see the garages too close to his boundary fence but has advised that the 1 metre gap proposed should be sufficient to enable him to maintain his fence.

### Conclusion

The siting and design of the garages are not considered to have a detrimental impact on visual or residential amenity or highway safety and therefore the proposals are considered acceptable 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. The design and siting of the garages is not considered to have a detrimental impact on visual amenity, residential amenity or highway safety. Accordingly the development is considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 criteria a, 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: Amended Site Location Plan at 1:1250, Site Plan at 1:200 and Plans and Elevations at 1:50 received by the local planning authority on 10 October 2012.
- 3 The garages shall only be used as domestic garages incidental to the occupier's residential dwellings and no trade or business shall be carried out therefrom.

#### **Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To protect the amenities of neighbouring occupiers in accordance with Policy BE1 criteria i of the Hinckley & Bosworth Local Plan 2001.

#### **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:** 04

**Reference:** 12/00825/FUL

**Applicant:** Mr S Goodman

**Location:** Land Off Merrylees Road Newbold Heath

**Proposal:** ERECTION OF A DETACHED DWELLING HOUSE , GARAGE AND ASSOCIATED DEVELOPMENT

**Target Date:** 21 November 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 Bessant due to local support for the application.

Application Proposal

This application seeks full planning permission for the erection of a detached dwelling and double garage on land off Merrylees Road.

The main dwelling will be located to the north-west of the access track and will be approximately 13.5 metres wide and 8.5 metres deep. The proposed dwelling will be one and a half storeys high with the first floor accommodation in the roof with dormer windows to the front and rear and a gable wing projection to the rear. The overall height of the dwelling is 7.2 metres with a lower level projection to the north-west elevation and a chimney stack to the south east elevation.

The detached double garage will be sited to the north-west of the dwelling house and will be 5.6 metres wide and 6 metres deep and will have an overall height of 5.6 metres.

The application includes a sewage treatment plant which is indicated to the west of the proposed garage.



The site will be served from the existing access off Merrylees Road which will be widened to 4.8 metres and will have a 6 metre kerbed radii to Merrylees Road. The first 7 metres will be laid to tarmac.

### The Site and Surrounding Area

The site is located to the north east of Newbold Heath and to the north west of Chater Farm. Some years ago the site was occupied by a farmhouse and related outbuildings known as Craigmores Farm but these have long been demolished. The application site (not including the track) measures approximately 1075 square metres and is accessed from Merrylees Road via a field gate and an unmade track that extends to approximately 85 metres. There is an area of concrete within the application site believed to be the old farmyard, but it is otherwise laid to grass. The applicant's landholding, comprising the application site and the two fields either side of the access track, is currently used for the production of meadow hay and the keeping and grazing of the applicant's horses and there are a number of stables and small barns of timber and corrugated metal sheet construction within it. The south east boundary is defined by a tall hedgerow containing mature and semi-mature field boundary trees, the south west boundary is defined by a tall hedgerow and the north east and north west boundaries are of post and rail fencing.

### Technical Documents Submitted with application

A Design and Access Statement has been submitted in support of the application. This states that the dwelling is proposed on the site of the old farmhouse that was built in 1841 and demolished by the Coal Board in 1978 and that the residential use was never voluntarily relinquished or deliberately abandoned. It further states that the foundations of the farmhouse and its surrounding area have no reasonably beneficial use as productive agricultural land or for the storage of agricultural materials or equipment. The storage of manure or fertiliser is forbidden because of the run off of nitrates into the groundwater. It further states that Craigmores Farm is no longer a full time working farm and its only activities relate to the production of meadow hay, private equestrian use, an allotment and an orchard.

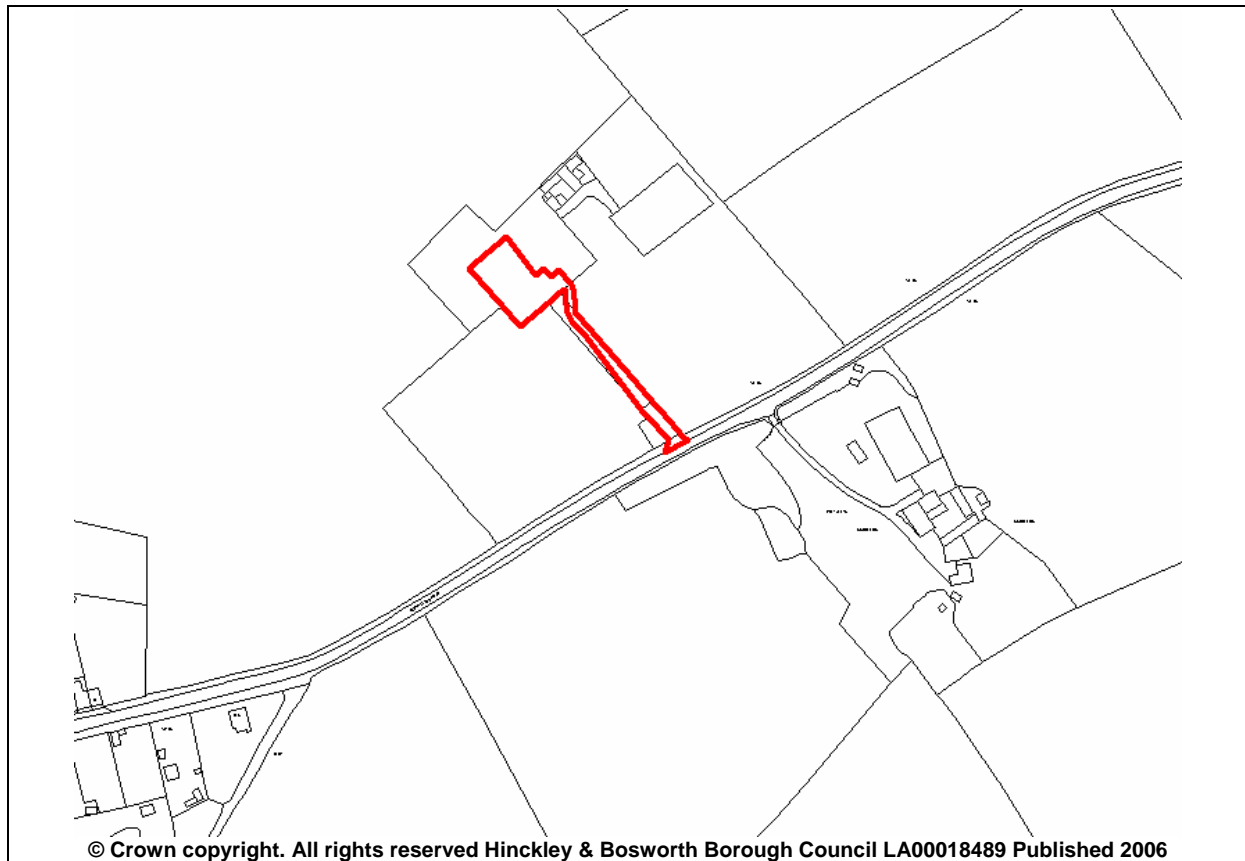
The Design and Access Statement indicates that the 2009 scheme was in outline and unlike the current application did not include detailed plans. It further states that the current proposal has been designed and laid out with sensitivity to its surroundings, and following consultation with the local community merits a more favourable outcome compared to the 2009 application.

An arboricultural report has been submitted that recommends that any building works should take the trees into consideration and a tree protection zone should be implemented to avoid any damage to tree roots.

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

11/00730/CLU	Certificate of lawful proposed development for a replacement dwelling	Refused	02.11.11
11/00030/CLU	Certificate of lawful proposed development for a replacement dwelling	Refused	14.03.11
09/00841/OUT	Erection of one dwelling (outline)	Refused Appeal dismissed	24.02.10

05/00958/FUL	Construction of Menège	Approved	09.11.05
05/00705/CLU	Certificate of Lawful Existing Use for the grazing and stabling of Horses	Approved	31.08.05
88/01467/4	Erection of 5 dwellings and garages	Refused	20.12.88
85/0722/4	Erection of One Dwelling	Refused	20.08.85



**Consultations:-**

No objections have been received from Head of Community Services (Pollution).

Objections have been received from Director of the Environment and Transport (Highways).

No objections subject to conditions have been received from The Head of Community Services (Waste Minimisation).

Comments have been received from Head of Community Services (Drainage).

Letters of support have been received from:-

Newbold Parish Council

Four nearby residents who indicate that the proposals will be of benefit to the surrounding area and that, in regard to the highways objections, the access has been used for 150 years without any problems and the dwelling will provide security for neighbouring fields.

**Policy:-**

Local Plan 2006-2026: Core Strategy 2009

Spatial Objective 13: Transportation and Need to Travel  
Policy 11: Key Rural Centres Stand Alone  
Policy 13: Rural Hamlets

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development (criteria a, g and i)  
Policy NE5: Development in the Countryside  
RES5: Residential Proposals on Unallocated Sites  
Policy T5: Highway Design and Vehicle Parking Standards

Supplementary Planning Guidance/Documents

Leicestershire County Council's 6Cs Design Guide  
New Residential Development SPG

**Appraisal:-**

The main considerations in respect of this application are the principle of development, the impact of the proposals on the visual amenity and character of the countryside, residential amenity and highway safety.

Principle of Development

Spatial Objective 9 of the Core Strategy seeks to ensure development contributes to the local distinctiveness of the borough and enhances both settlement identity and the environment through the quality of sustainable design. Design and other measures will be used to develop strong community identities and neighbourhood pride.

Spatial Objective 13 of the Core Strategy seeks to reduce the high reliance on car travel in the borough and to increase the opportunities for other forms of transport by focusing the majority of development in the Hinckley urban area where there is a range of transport options available and through securing improvement to public transport infrastructure and facilities that promote walking and cycling and through the use of travel plans.

The site is located outside the settlement boundary of Newbold Heath which is a rural hamlet. Whilst Core Strategy Policy 13 is generally supportive of housing development within settlement boundaries it notes that rural hamlets have limited, if any services and generally rely on key rural centres of surrounding urban areas for schooling, employment and provision of goods and services. The nearest key rural centre is Newbold Verdon where Core Strategy Policy 11 proposes the allocation of a minimum of 110 new homes to support key rural centres and ensure they provide key services to their rural hinterland. The site is located 300 metres outside the settlement boundary of Newbold Heath and 1,000 metres outside the settlement boundary of Newbold Verdon (as the crow flies) and therefore within the countryside and subject to the provisions of Policy NE5.

Policy NE5 is relevant. However, following the coming into force of the NPPF in March 2012 only limited weight can be attached to criterion a-c because of conflict with the NPPF presumption in favour of sustainable development and supporting rural communities. Notwithstanding this the design criteria i-iv remain generally relevant to development within the countryside. The design criteria seek to ensure that development does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of existing buildings and the general surroundings, is screened by landscaping and will not generate traffic likely to exceed the highway network or impair road safety.

Policy RES5 of the Hinckley and Bosworth Local Plan indicates that, on sites which are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within the boundaries of an urban area or rural settlement as defined on the proposals map and the siting, design and layout of the proposal does not conflict with the relevant plan policies. The proposals are outside the settlement boundary of both Newbold Heath and Newbold Verdon and conflict with other plan policies and would therefore be contrary to Policy RES5.

The principle of development has already been considered unacceptable in the refusal of the 2009 planning application which was subsequently dismissed at appeal. In reaching his decision the inspector came to the following conclusions:-

- a) That the residential use of the site for a farmhouse had been abandoned.
- b) That the appellant's claims, that by reuniting the site of the former farmhouse which he purchased in 2009, with the fields either side in 2004 established part of the former farm and created a small agricultural holding, were not sufficient to justify the building of a replacement farmhouse.
- c) On the matter of sustainable development, whilst he noted that there was a bus stop within 0.8 kilometres of the site there was little evidence of other community facilities close by. The appellant claimed that there were such facilities within 1.6 kilometres using public footpaths. Notwithstanding this, the Inspector was concerned that the proposed dwelling in this location would increase the need of its occupiers to travel by private vehicles to access services and facilities contrary to the objectives of the national and local policies on sustainability.
- d) Examples of other recent development carried out in the area were brought to the Inspector's attention. However, it was noted that those schemes were within the village of Newbold Heath and differed in siting and circumstances.
- e) The Inspector noted that the appellant claimed that his neighbours and the Newbold Verdon Parish Council had expressed support for the proposal but this was not a justification for allowing the development. Nor did it diminish the harm that he identified to the objectives of the local planning policies that sought to protect the countryside from inappropriate development.

For these reasons the Inspector considered the proposal would constitute an unjustified and unsustainable form of development in the countryside contrary to national and local policy.

The 2009 application was considered against Planning Policy Guidance and Planning Policy Statements and sought to demonstrate that there was a special justification for an agricultural dwelling. The current application does not seek to demonstrate an agricultural requirement but highlights the difference between the previous and current applications, in that the previous application was in outline whereas the current application is a full application. The applicant considers that this seeks to demonstrate that the application is in keeping with its surrounds. The applicant further seeks to demonstrate special circumstances in this case, in that the proposed house is an attractive addition to the local housing stock and sits on the same footprint as the house demolished in 1978. The applicant has

consulted with the local community who they believe are of the view that the proposed dwelling house will enhance the vitality of the rural community of Newbold Heath.

In their Design and Access Statement the applicant indicates that the proposed dwelling is on the footings of the old farmhouse and that the use of the site for residential use was never voluntarily relinquished or deliberately abandoned. Officers are of the firm opinion that the use has been abandoned and we should not be considering this application as a replacement dwelling. Following refusal of the application in 2010, in the appeal decision the Inspector supported the view of the Council that the residential use has been abandoned. The Inspector also noted the support from local residents but he did not consider this was justification for allowing the development.

Since the appeal decision the NPPF has been introduced and this further supports the requirement for sustainable development. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It further states, at paragraph 55, that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. Those special circumstances include “the exceptional quality or innovative nature of the design of the dwelling. Such a design should:

- a) be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- b) reflect the highest standards in architecture;
- c) significantly enhance its immediate setting; and
- d) be sensitive to the defining characteristics of the local area.”

Whilst the applicant seeks to demonstrate special circumstances and officers have no concerns about the design of the dwelling, the criteria of the NPPF goes over and above what is considered to be good design. The design of the dwelling is not considered to justify special circumstances and the proposals do not overcome the previous reasons for refusal and appeal decision.

The principle of development is not considered to be acceptable.

#### Impact on visual amenities and the countryside

The application proposes a detached dwelling house which has been designed as one and a half storeys with dormer features to the front, a single storey wing to the side and dormers and gable feature to the rear. The materials are sympathetic to the style of rural properties in the wider vicinity with brick elevations and weatherboarding. There are no other properties visible along the road frontage, the nearest dwelling being the farmhouse opposite. The dwelling will be set back from the road by approximately 95 metres beyond the existing hedgerow to the southern boundary. The dwelling will not be viewed alongside other dwellings and as such the design is not considered to be out of keeping with other dwellings in the general locality. The proposals are not considered to have a detrimental impact on the visual amenities when viewed from Merrylees Road.

In terms of the siting of the dwelling, it is set within open countryside, alongside the existing stables and ménage. The proposals will add additional built form in this location with the addition of the dwelling itself, the double garage, the sewage treatment plant. In addition, residential use of this site would generally incorporate additional clutter with washing lines; refuse bins, etc which would alter the rural appearance of this parcel of land.

The applicants have clearly given consideration to the design of the dwelling and officers raise no objections in design terms. It is not, however, considered that the design is “truly

outstanding or innovative” and does not meet the high threshold set out in the NPPF which could justify development within the open countryside subject to the other criteria detailed above being met. It is not considered that in this case the criteria of the NPPF have been met. The concern relates to the introduction of built form and associated development that would change the character of the site within the countryside. Chater Farm is opposite the site with a farmhouse and farm buildings. However, the character of the area is principally open fields and a few farm buildings. The introduction of a new dwelling without any special justification in this unsustainable location would represent an unwarranted intrusion into the countryside and be detrimental to the open and undeveloped appearance and character of the landscape and could, if permitted, lead to a proliferation of new dwellings in similar locations.

### Impact on Highway Safety

In respect of the previous application there were concerns raised that the proposed dwelling was remote from any settlement and in an unsustainable location in terms of options for use of alternative modes of transport. However, the County Council previously indicated in relation to the previous application considered by the Inspector, that there were no justifiable highway safety grounds for refusal of the application subject to improvements to the access being carried out.

In considering the appeal the Inspector expressed concern that the proposed dwelling in this location would increase the need of its occupiers to travel by private vehicles to access services and facilities contrary to the objectives of the national and local policies on sustainability. Notwithstanding the previous position and having regard to the views of the Inspector, The Director of Environment and Transport (Highways) has recommended that the application be refused and highlights the need to reduce travel by means other than the private motor car. Additionally, it is considered that the proposal fails to meet the location criteria set out in Policy IN6 of the 6Cs Design Guide and the principle of development is considered unacceptable from a highways point of view as the proposals are not sustainable. The Director of Environment and Transport (Highways) further advises that, if anything, the need to locate housing development sustainably in locations where the need to travel by car is minimised, has been strengthened in recent years by the publication of LTP3 and the NPPF. The proposal also fails to meet the locational criteria set out in Policy IN6 of the 6Cs Design Guide and as the Design and Access Statement points out, fails to comply with Policy 13 of the Core Strategy.

There are also concerns about highway safety. Merrylees Road is an unrestricted road with no pedestrian footpaths. The proposals are likely to increase traffic to and from the site in an area remote from development where manoeuvring traffic might not be expected.

The visibility to the left is restricted by the existing hedgerow. Whilst this is within the ownership of the applicant the provision of 2.4 metre by 160 metre visibility splays would be required and this would necessitate the removal of a significant length of hedgerow. This is considered to be harmful to the visual amenities of the locality.

The applicant has submitted additional information in response to highway safety concerns. Where highways indicate that the proposals are likely to result in an increase in turning traffic and where turning manoeuvres might not be expected, the applicants consider that this cannot be demonstrated and that there is already an access which is regularly used by equestrian traffic. They further indicate that the 2.4 metre by 160 metre visibility splays can easily be achieved with only a minimal amount of hedgerow trimming. These comments have been sent to highways for consideration and their response will be reported as a late item.

### Other Matters

Head of Community Services (Waste Minimisation) recommends a condition requiring details of collection points for waste that is accessible from the highway.

Head of Community Services (Drainage) recommends conditions in respect of permeable materials and indicates that the suitability of the ground strata for drainage should be established. The sewage treatment proposals would need consent from the Environment Agency.

### Conclusion

The erection of a new dwelling in an unsustainable location within the countryside without special justification is contrary in principle to central government guidance, regional policies and local plan policies and would represent an unwarranted intrusion into the countryside to the detriment of the open and undeveloped appearance and character of the landscape and visual amenity. Additionally, it has not been demonstrated that the proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport or that an appropriate and safe vehicular access would be provided. It is therefore recommended that planning permission be refused.

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

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

##### **Reasons:-**

- 1 The proposal constitutes the erection of a new dwelling in an unsustainable location in the countryside without any special justification and results in an unwarranted intrusion into the countryside that would be detrimental to the open and undeveloped appearance and character of the landscape, contrary to Policies BE1, NE5 (criteria i and ii) and RES5 of the Hinckley & Bosworth Local Plan 2001, the principles of the NPPF as set out in paragraphs 49 and 55 and Policies 11 and 13 and Spatial Objectives 9 and 13 of the 2009 Core Strategy.
- 2 The proposal has failed to demonstrate that the new dwelling would be in a location where services are readily and safely accessible by walking, cycling and public transport and that a safe and appropriate access would be provided. As such the proposals are not considered to be sustainable and are considered to be detrimental to pedestrian and highway safety contrary to Policy T5 of the Hinckley & Bosworth Local Plan 2001, the County Council's 6Cs Design Guide and the principles of the NPPF.

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

**Item:** 05  
**Reference:** 12/00878/CONDIT  
**Applicant:** Asda Stores Ltd  
**Location:** Asda Barwell Lane Hinckley  
**Proposal:** VARIATION OF CONDITION 1 OF PLANNING PERMISSION 03/00247/CONDIT TO CHANGE MONDAY TO SATURDAY OPENING HOURS TO BETWEEN 7AM AND 10PM  
**Target Date:** 3 December 2012

#### **Introduction:-**

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

#### Application Proposal

This is an application to vary condition 1 of planning permission 03/00247/CONDIT.

Planning permission was granted on 30 July 1991 (ref: 91/00475/4) for extension, refurbishment and alterations to car park and service area and condition 7 restricted the hours of use from 9.00 am to 8.00 pm Monday to Friday; 8.30 am to 8.00 pm Saturday and at no other time, except as may be agreed in writing by the Local Planning Authority.

In 2003 an application (ref: 03/00247/CONDIT) was received to vary condition 7 attached to planning permission 91/00475/4 to allow Sunday opening hours and was refused by the Local Planning Authority. The applicant appealed the decision and permission was granted at appeal (ref: APP/K2420/A/03/1132338)

As a result of the appeal the approved opening hours were:-

08:30 – 20:00 Monday to Friday, 08:00 – 20:00 Saturday and 10:00 – 16:00 on Sunday.

This application seeks to extend the existing opening hours to:-

07:00 – 22:00 Monday to Saturday (and the same hours as previously approved on Sunday 10:00 – 16:00)

For the avoidance of doubt the hours of delivery by service vehicles are restricted between 8.00pm and 7.00am on Mondays to Saturdays and between 5.00pm and 9.00am on Sundays, as approved within application ref: 08/00936/CONDIT. It is not proposed to vary that as part of this application.

#### The Site and Surrounding Area

The ASDA superstore, a site of 2.24 hectares is designated as a Local Shopping Centre located within the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan. The site is also designated as a site of ecological interest.



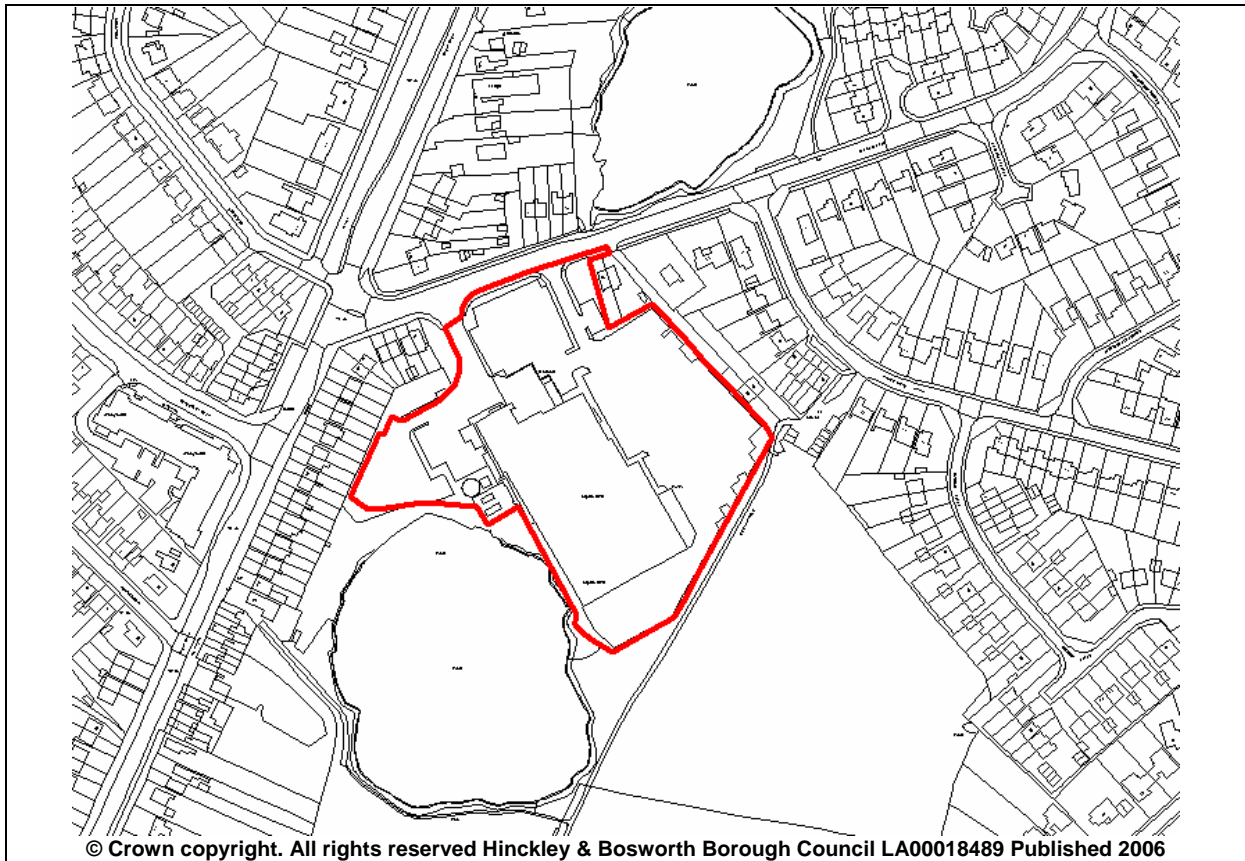
Technical Document submitted with application

Planning Statement  
Opening Hours Assessment  
Transport Statement.

**Relevant Planning History:-**

There is an extensive history on the site. The most relevant planning history for this application includes:-

12/00189/S	Breach of condition 2 (08/00936/CONDIT)	Pending Consideration	
12/00682/CONDIT	Variation of condition 1 of Planning permission 03/00247/CONDIT to change Monday to Saturday Opening Hours to between 7 am and 10 pm	Withdrawn	27.09.12
08/00936/CONDIT	Variation of condition 8 of planning permission 91/0475/4	Approved	04.12.08
Appeal ref: APP/K2420/A/03/1132338		Appeal Allowed	03.11.04
03/00247/CONDIT	Variation of Condition 7 of application 91/0475/4 to permit Sunday opening including noise mitigation measures	Refused	19.06.03
Appeal ref: APP/K2420/A/96/273435/P4		Appeal Dismissed	11.02.97
96/00155/CONDIT	Variation of Condition 7 of Application 91/0475/4	Refused	01.05.96
92/00562/4	Variation of Condition 7 of Application 91/0475/4	Refused	28.07.92
91/00475/4	Extensions, refurbishment and alterations to carpark and service area	Approved	30.07.91



### Consultations:-

No objection has been received from:-

Director of Environment and Transport (Highways)  
Head of Community Services (Pollution)

Site notice displayed and neighbours notified.

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

- a) history of bad experiences with ASDA who seem to get away with what they like; resurfacing of car park resulted in drills beyond the hours of midnight and deliveries during the middle of the night; 40 foot lorries very often parked on double yellow lines on a blind bend, bread lorry being unloaded outside my house on double yellow lines on the grass verge; lorry driver urinating in the bushes at 4 pm visible from mothers and children walking from school; lorry deliveries turning up at 5.40 am; parking across from homes can't get out of my drive in the morning; several hundred trolleys were delivered by large lorries after trading on a Sunday; ASDA are not good at complying with imposed measures and conditions
- b) already endless traffic waiting to get into the car park because it is not big enough, traffic noise and reversing alarms of the lorries
- c) ASDA store at present generated significant amount of traffic, from previous traffic surveys more than 70% of the vehicular traffic on Stoneygate Drive is to or from ASDA; a survey by local residents found 75% of traffic using Stoneygate Drive during store opening was to attend ASDA
- d) use of Stoneygate Drive as a short-cut creates noise and traffic congestion and causes distress

- e) such continual disturbance has been proven to be a contributory factor to poor health, poor productivity and lower quality of life
- f) already droning noise of the lorries keeping their engines running, refrigeration units and car alarms
- g) from 8 pm when the store closes the traffic is reduced and we enjoy the quiet that this offers us, this period in the evening will be lost if hours are extended until 10pm; Noise would be for a further three and a half hours for six days a week
- h) excessive vehicles speeding, so traffic calming measures should be installed
- i) overweight vehicle still continue to travel down the road and the 7.5 tonne weight limit is not adhered to in many instances
- j) on road parking causes problems to the flow of traffic, would be worse with additional vehicles using the road, parking restraints are imperative
- k) access to the rear of ASDA is often used by non residents, this should be for the residents of the terraced houses only, shoppers should be made to use the car park
- l) extending store opening hours would increase traffic levels, noise and pollution at times when the roads are currently somewhat quieter
- m) if ASDA is open longer it will not spread the traffic out it will just mean continuous traffic
- n) further housing development off Leicester Road will bring more traffic down Stoneygate Drive, the road is at saturation point and is not very wide, it would be foolish to think the road can take much more without infrastructure changes
- o) increase in deliveries
- p) already live in the glare of the illuminated ASDA logo
- q) car park used as a race track at night
- r) concerned about children's sleep and safety
- s) noise arising from the store and car park - engine noise, staff arriving and leaving throughout the night (who don't use the car park) car alarms, trolleys, maintenance work
- t) noise report should be considered with caution – results have been adjusted and some loud noises excluded – the value of the data has been weakened by measures in place such as a wooden fence ('acoustic barrier'); Surely accurate and meaningful information could have been obtained simply by positioning the equipment on the other side of the fence
- u) early mornings and late evenings residents should be able to expect a degree of peace and quiet which would be disturbed; general disruption of privacy
- v) request that the Council monitor noise and lighting pollution from my property
- w) only short period of time for using the garden in relative peace
- x) the noise and light pollution at present from the carpark is substantially intrusive, but does reduce after 8.30 pm
- y) by the time the staff and the last customers have left the store with a 10 pm closing time the actual clearance of the site would be nearer to 11 pm, resulting in noise pollution past 10 pm; deliveries, maintenance, cleaning and building activities continue around the building when it is closed
- z) staff would be arriving at the site prior to 7 am and this will disrupt sleep
- aa) many people have lived in this area for a long time and have seen their quiet time eroded by ASDA increasing its hours
- bb) increased light pollution, dust and fumes
- cc) the problem is not the noise from inside the car park, it is the noise from the traffic on Barwell Lane which will be heavier between 7 am until 8.30 am and from 8 pm until 10 pm
- dd) the increase in noise level will exceed the recommended guidelines for reasonable conditions with windows open – especially after 8pm while young children are asleep
- ee) a sample of three houses in Barwell Lane is not representative of the area as a whole
- ff) ASDA claim that extra opening hours will provide greater employment opportunities in the local population, but surely this will be at the expense of TESCO, as this is where

- they say their customers will be coming from due to their creation of wider options for consumer choice
- gg) site is closely surrounded by residential dwellings; careful consideration should be given to the quality of the life of the residents; impair and reduce the quality of life of residents
  - hh) detrimental impact on the local environment in general
  - ii) the supermarket has been overtrading for many years, it was initially closed on a Monday and Sunday – things have changed but for whose benefit?
  - jj) increase in anti social behaviour
  - kk) should ASDA wish to have extended opening hours it should be in their interest to move sites, they operate on a large estate with family homes and surely this must be taken into consideration as this application appears to be a stepping stone for 24 hour opening
  - ll) hundreds of additional properties have been erected since the shop was first opened
  - mm) the so called “acoustic fence” erected appear to be ineffectual at reducing noise emanating from the store; ASDA have put up an acoustic fence but have missed out the back of my house
  - nn) the current plan show acoustic fencing constructed to reduce noise pollution – this is an eyesore and makes the store look like a prison
  - oo) the disturbance that these hours would cause would devalue property prices and expect some sort of re-numeration if this goes ahead as the amount of money ASDA would make from extending their working hours should allow them to do this
  - pp) ASDA seeking consent on the basis that competitors have the right to open at these times, but other stores do not have the same level of impact on the local environment that ASDA does
  - qq) the latest application, following a withdrawal of a similar application just a few weeks ago could be a cynical ploy hoping that fatigue or confusion will cause objectors to stop objecting
  - rr) how many local residents have been updated on the situation; not being adequately informed or communicated with leaves a bad impression on just what is going on
  - ss) reject the application to allow residences a little time of peace and quiet in their working days and weekends.

**Policy:-**

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Regional Policy Guidance: East Midlands Regional Plan 2009

Policy 3: Distribution of New Development

Policy 18: Regional Priorities for the Economy

Policy 22: Regional Priorities for Town Centres and Retail Development

Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley

Hinckley and Bosworth Local Plan 2001

Retail 7: Local Shopping Centres

Policy BE1: Design and Siting of Development

Policy T11: Traffic Impact Assessment

## **Appraisal:-**

The opening hours from 08:30 to 20:00 on Mondays to Friday and 08:00 to 20:00 on Saturdays have already been established through the earlier grant of planning permission on appeal. Condition 1 attached to planning permission (ref: 03/00247/CONDIT) states that:-

“The premises shall not be open for customers outside the following hours;- 0830 to 2000 on Mondays to Fridays; 0800 to 2000 on Saturdays; and 1000 to 1600 on Sundays”

For the avoidance of doubt there is no specific reason contained with the Inspector’s decision attached to this condition. However, it is considered based on the Inspector’s report that the main considerations with regards to this application are the impact of the proposed variations to the approved scheme on the amenities of surrounding residential properties.

Accordingly this application considers the following elements; history of the site, policy context, the site and surrounding area, impact upon residential amenity and other matters.

### History of the Site

Planning permission was granted on 30 Jul 1991 (ref: 91/00475/4) for extensions, refurbishment and alterations to car park and service area and condition 7 of that permission restricted the hours of use from 9.00 am to 8.00 pm Monday to Friday; 8.30 am to 8.00 pm Saturday and at no other time (except as may be agreed in writing by the Local Planning Authority).

In 1992 (ref:92/00562/4) and 1996 ref: 96/00155/CONDIT) applications were received to vary condition 7 attached to planning permission 91/00475/4 to allow longer Sunday opening hours and were both refused by the Local Planning Authority. The reason for refusals related to Sunday opening hours only. Application ref: 92/00562/4 was refused for the following reason:-

*“The proposed variation to condition 7 would result in further disturbance to the occupiers of dwellings adjacent to the site as a result of the slamming of car doors and the revving and manoeuvring of vehicles using the store car park during a period of time when the surrounding area is generally quiet.”*

In 1996 the reason for refusal was similarly:-

*“The proposed variation to planning condition would result in the amenity of local residents being significantly reduced by virtue of noise and disturbance generated by vehicle movements and the general use of the car park by shoppers on a day when residents might reasonable expect a lower level of activity on the site.”*

This 1996 variation of condition application was later appealed and the appeal dismissed ref: T/APP/K2420/A/96/273435/P4.

In 2003 an additional application (ref: 03/00247/CONDIT) was received to vary condition 7 attached to planning permission 91/00475/4 to allow longer Sunday opening hours and was again refused by the Local Planning Authority. The reason for refusal related to Sunday opening hours only and was refused for the following reason:-

*“The proposed variation to planning condition 7 of planning permission would result in the amenity of local residents being significantly reduced by virtue of noise and disturbance generated by vehicle movements and the general use of the car park by shoppers on a day when residents might reasonable expect a lower level of activity on the site.”*

The applicant appealed the 2003 decision and permission was granted at appeal (ref: APP/K2420/A/03/1132338). The Inspector acknowledged at the time that whilst the proposal would harm the living conditions of nearby local residents due to noise and disturbance, that this would be outweighed by other considerations.

There are no proposed changes to the opening hours of a Sunday, which it is considered is consistent with the conclusions of the Inspector for the appeal in respect of protecting the amenity of the surrounding residences and the impact that the extended opening hours on a Sunday will have upon noise.

### Policy Context

In March 2012 the NPPF was published and introduced 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. Therefore providing a development is consistent with these criteria, in principle the development should be considered sustainable and acceptable in principle.

More specifically in respect of building a strong, competitive economy, paragraphs 18-20 within the NPPF state that:-

*“The Government is committed to securing economic growth in order to create jobs and prosperity...and the planning system does everything it can to support sustainable economic growth... Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.”*

The accompanying Planning Statement states that the proposed opening hours creates wider options for consumer choice and travel in terms of being able to more conveniently access their most local foodstore and doing a regular grocery shop, avoiding the need to increase trip lengths to other stores, resulting in less sustainable travel patterns.

Core Strategy Policy 1 states that to support Hinckley's role as a sub-regional centre the council will ensure that there is a range of employment opportunities within Hinckley. The accompanying Planning Statement refers to the scheme provided access to facilities to provide reasonable consumer choice, together with supporting local employment opportunities, is a key element of delivering a sustainable community.

It is considered that the scheme proposes to extend hours on an existing site which intends to reduce the need for consumers to travel elsewhere to other stores, supporting sustainable travel patterns, whilst increasing local employment choices at existing sites, which complies with the sustainability and economic objectives of the NPPF and Core Strategy Policy 1.

At a local level, the site is located within an area specifically designated locally as 'Retail 7'. Policy Retail 7 continues to apply to Local Centres outside of the Hinckley Town Centre Area Action Plan Boundary and is considered to be consistent with the intentions of the NPPF. Policy Retail 7 states that outside Hinckley Town Centre planning permission will be granted

for retail development to serve the local community provided that the development does not result in adverse impact upon the locality and highway safety. This policy does not strictly apply, as the retail development is already in place. For the avoidance of doubt, the Councils' Supplementary Planning Document (SPD) on Shopping and Shop Fronts is still applicable to sites outside of the Hinckley Town Centre, however again there are no specific controls or considerations in respect of Retail Policy 7 and hours of opening for A1 uses.

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

In summary, the NPPF states that significant weight should be placed on the need to support economic growth through the planning system and help achieve economic growth and that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. However, the NPPF also states that 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.

For the reasons discussed in this report it is considered that the scheme constitutes sustainable economic development which does not give rise to any significant impacts upon the occupiers of surrounding residential properties.

### The Site and Surrounding Area

The store building is placed on the western part of the site, set back from Barwell Lane. Barwell Lane runs along the site's northern boundary. The customer entrance is to the site's north boundary with the delivery access off the northern boundary, further to the west.

Directly opposite the main store customer access are four semi detached houses on the northern side of Barwell Lane, Nos 7,9,11 and 13 Barwell Lane. Adjacent to the customer access is No. 26 Barwell Lane a semi detached house adjoined by No.28 to its east.

There is a 2.3 metre high acoustic screen fence to the periphery complete with planting and landscaping implemented as part of conditions imposed by the Planning Inspector within the 2003 appeal. No. 26 is encompassed by car parking to its west (side) elevation and south (rear elevation). The 2.3 metre acoustic fence is located along the boundary with some planting, including trees to the rear. The property does not contain any side windows, but contains rear windows. No. 28 Barwell Lane adjoins No. 26 to the east and would be immediately impacted as a result of the largest, rear car park to the rear. Mature planting is sited to the rear along with the acoustic fencing.

There are a number of houses on the north-western corner of the site at the junction of Barwell Lane with Ashby Road, whose rear gardens back onto the service yard/staff parking area and the delivery access.

To the east are a number of dwellings which are part of both Barwell Lane and Stoneygate Drive, whose rear gardens abut the car park of the store.

No. 20 Stoneygate Drive would be immediately impacted by the use of a row of car parking spaces to its southern boundary, which form part of the largest car parking area. No. 20 has upstairs windows close to the store boundary, and they are obscured and double glazed. Acoustic fencing to 2.3 metres and planting is also present.

The largest customer car park is to the east, followed in size by car parking to the north and south, respectively. There is a pedestrian gate in the eastern corner in the metal fence which gives access to the open recreation land to the south and to a footpath leading north-eastwards to Stoneygate Drive.

The staff car park is located to the rear of the store building on the western periphery of the site. An application in 2011 (ref: 11/00123/FUL) approved the creation of a further 26 staff car parking spaces and acoustic fencing to a height of 2.4 metres to the rear of properties along Ashby Road. This joins to a 2.4 metre highly timber acoustic fence to the western boundary already approved under application reference: 08/00937/FUL for the entirety of the western and southern periphery of the site.

There is also a 4 metre and 3 metre high acoustic fence and gate to the service area approved under the above mentioned 2008 application.

In summary, it is considered that with the exception of the supermarket itself the surrounding area is predominantly residential in nature. As identified, there are number of residential properties that would be immediately impacted upon as a result of the proposal. There is also existing acoustic fencing and landscaping which have been implemented in accordance with previous consents on the site.

#### Impact upon Residential Amenity

Criterion i of Saved Policy BE1 and criteria a of Part Saved Policy Retail 7 are considered to have limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

#### Vehicles using nearby roads

A number of objections have been raised regarding the already high level of vehicles using the nearby roads and that this extension of hours will cause an increase in noise from additional traffic using the roads outside of the supermarket.

Noise monitoring was undertaken at three specific properties; No. 4 Barwell Lane, No. 9 Barwell Lane and No. 32 Barwell Lane.

The scheme has been considered by the Director of Environment and Transport (Highways) who states that given no objection was raised on the original 91/0475/4 application that the principle of the development and the technical standard of the access, internal circulation, parking and space for servicing provision were considered to be acceptable.

In respect of this application, the Director of Environment and Transport (Highways) confirms that whilst extra opening hours may introduce additional traffic, given that the technical standards as stated above were acceptable, then this increase would not lead to concerns in connection with turning manoeuvres at the access, or parking within the public highway.

The Director of Environment and Transport (Highways) has also confirmed that as the extra hours are outside of the peak hours of traffic on the road network, the impact of the proposed traffic on the capacity of the site access junction and at other junctions in the vicinity of the site would not lead to any highway safety concerns.

In addition, the Head of Community Services (Pollution) states that the road traffic noise impact assessment shows a negligible/minor increase in noise levels and that the assessment showed a worst case scenario in that predictions were not diluted by using a 16 hour averaging period and as such raises no objection.



For the avoidance of doubt it is not possible for the Local Planning Authority to impose controls over the use of the public highway in terms of speed or weight restrictions, as the public highway falls within the remit of Leicestershire County Council. In addition, the Director of Environment and Transport (Highways) has not requested any highway improvements to be introduced, as part of this application, to be imposed as conditions.

Accordingly the Director of Environment and Transport (Highways) and Head of Community Services (Pollution) raise no objects to the scheme on the basis of increased noise or impacts upon highway safety.

#### Noise and disturbance from within the car park

The Inspector within the first appeal considered that the greatest impact (as a result of Sunday trading) would be on the properties adjoining the car park, resulting from the activities in this area. Similarly it is considered that the greatest impact as a result of the extension of opening hours would be the same properties.

In addition, objections within this application have raised concerns over the increase in noise and disturbance upon their residential properties, as a result of noise from within the car park.

It is considered that the potential noise sources would be from, stopping and starting of customer vehicles, vehicle movements, closure of vehicle doors and boots, people talking, trolleys and other disturbances associated with an operating store.

Noise monitoring was undertaken from four specific points within the vicinity of No. 20 Stoneygate No. 10 Barwell Lane, from within the staff car park and No. 26 Barwell Lane. The noise survey was carried out on the evening of Friday 28 September 2012 and the morning of Saturday 29 September 2012.

The Head of Community Services (Pollution) states that the predicted noise levels from the car park have been assessed against guidance from the World Health Organisation Guidelines for Community Noise and the BS8233 reasonable standard, as there is no specific guidance for the assessment of noise from a car park and therefore this is the most appropriate guidance.

The Head of Community Services (Pollution) has reviewed the accompanying noise impact assessment and has confirmed that whilst the predictions for the noise resulting from the use of the car park show an increase in noise levels during the proposed opening times, the levels at the sensitive receptors show that the predicted noise levels falls within the appropriate guidance.

Accordingly the Head of Community Services (Pollution) offers no objection to the proposal on noise grounds.

#### Other Matters

##### Conditions

In respect of staff being present on site, there were no conditions restricting staff hours within the original 91/00475/4 consent. The only restrictions relating to staff hours were imposed by the Inspector within the appeal from application ref: 03/00247/CONDIT which relate to staff hours on a Sunday only. This application seeks to vary an existing condition and as such is not able to vary an additional condition which does not exist.

The 03/00247/CONDIT application imposed 5 conditions, of which one is being sought to be amended. With the exception of the staff hours on Sunday, all other conditions have been discharged and therefore no longer applicable and as such do not need to be carried forward with this consent.

### Letters of Representation

In response to letters of representation which have not already been addressed within the report:-

For the avoidance of doubt the hours of delivery by service vehicles are restricted between 8.00pm and 7.00am on Mondays to Saturdays and between 5.00pm and 9.00am on Sundays, as approved within application ref: 08/00936/CONDIT. In terms of existing delivery arrangements and potential breach of the planning condition above, this is subject to a pending enforcement case ref: 12/00189/S.

In respect of lighting, there are no restrictions on the hours of operation for lighting and the applicant has confirmed that there will be no additional lighting on the site as a result of this application. As such the Head of Community Services (Pollution) has no grounds to object on lighting.

In response to a request for light pollution to be measured from a complaint's property this is being considered by the Head of Community Services (Pollution) under the Nuisance Act. As lighting would not be affected by this application, no further consideration on this matter is required. The Council's Environmental Health team are responsible for investigating nuisance caused by light pollution; as such any concerns regarding the level of lighting should be addressed to this team.

In terms of the request for noise pollution to be measured from a complaint's property the Head of Community Services (Pollution) has confirmed that the noise report assessed noise from the car park at property closer than that of the complaint's property, and so an assessment has been done showing worst case scenario. As such it is not considered necessary for additional measurements to be undertaken.

In response to the concerns raised regarding the withdrawal of the previous application and lack of communication, the original application was withdrawn as further monitoring work needed to be undertaken by the applicant and their associates, at the request of the Head of Community Services (Pollution). The previous application ref: 12/00683/CONDIT, as it has generated a large number of objections, in accordance with the Council's constitution needed to be considered at the next available planning committee. Without this information the Head of Community Services (Pollution) was not able at that time to provide an opinion on the impacts and as such a recommendation was not available in time to take the report to that next planning committee. The applicant agreed to withdraw that application and undertake the additional monitoring work and explained that they would re-submit a new application once this had been undertaken. It is not the Council's procedure to notify all those who have made representation on the original application, that the application was then withdrawn. Instead the information was made available on the Council's website and for anyone who rang the planning department asking for an update on the application. When the new application was received, as before all those neighbours that directly adjoin the ASDA site were notified by a letter, a site notice was posted to the sites frontage, and details were provided on the Council's website which could be obtained through a site search or via the weekly list. The letter sent out to all those properties that adjoin the site, 31 in total, states that all representations on this application can be sent by email, letter or through the council's public access online.

De-valuation of property prices is not a material planning consideration and there is no formal basis to require the applicant to pick up any remediation costs, should property prices vary.

Further traffic travelling along Stoneygate Drive as a result of the housing development off Leicester Road has no relevance to the determination of this application.

The objection indicating that ASDA have put up an acoustic fence but have missed out the back of the complaint's house will be investigated further by the Council's Enforcement Team, in line with the previous consent.

### Conclusion

It is clear that with the exception of the supermarket itself the surrounding area is residential in nature and that the main considerations in respect of this application are the impacts as a result of the increase in opening hours upon the occupiers of these surrounding residential properties.

The planning history of this site reveals that opening hours on Sundays have been subject to a number of applications and appeals. The Inspector within the latest appeal found that the harm caused to neighbouring properties did not outweigh that of the other benefits that could arise as a result of allowing Sunday opening hours.

In this case, however the proposed extension of opening times are not considered to lead to a level of noise and general disturbance that is likely to be significantly detrimental to the amenities of neighbouring residents. Accordingly the potential impacts upon the amenities of neighbouring properties is not significantly detrimental to sustain or warrant a refusal of planning permission in this case.

The NPPF states that significant weight should be placed on the need to support economic growth through the planning system and help achieve economic growth and that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

In this case there has been no evidence to suggest that there is harm caused by the extension of opening hours upon the occupiers of neighbouring properties. As such in accordance with the NPPF the significant weight that has been placed on the need to support economic growth has carefully been balanced against the adverse impacts of doing so, and have been concluded to be acceptable.

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

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below 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 the scheme constitutes sustainable economic development and does not give rise to any significant impacts upon residential amenity.

Hinckley and Bosworth Local Plan (2001):- Policy BE1 (criteria i)

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 details: Site Location received by the Local Planning Authority on 8 October 2012.
- 3 The supermarket shall only be open to the public between 07:00 – 22:00 Monday to Saturday and 10:00 – 16:00 on Sunday.
- 4 No staff shall be present on the premises before 09:00 or after 17:00 on a Sunday.

**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 proposed use does not become a source of annoyance to nearby residents and remains compatible with the surrounding area to accord with Saved Policy BE1 (criteria i) of the Hinckley and Bosworth Local Plan 2001.
- 4 To ensure that the proposed use does not become a source of annoyance to nearby residents and remains compatible with the surrounding area to accord with Saved Policy BE1 (criteria i) of the Hinckley and Bosworth Local Plan 2001.

**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:** 06

**Reference:** 12/00882/CONDIT

**Applicant:** Mr Tom Sewell

**Location:** Flude House Rugby Road Hinckley

**Proposal:** VARIATION OF CONDITION 2 OF PLANNING PERMISSION 10/00847/FUL TO INCLUDE MINOR CHANGES TO APPROVED PLANS AND ELEVATIONS

**Target Date:** 15 January 2013

#### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it involves variation of a Section 106 legal agreement for developer contributions completed in association with a major development.

#### Application Proposal

Members may recall that planning permission (reference 10/00847/FUL) was approved for a mixed use development including retention, refurbishment and extension to existing buildings and demolition of factory buildings to create 48 dwellings and 6 apartments with associated parking. This application seeks a variation to Condition 2 of the permission which relates to the development being carried out in accordance with specific plans submitted with the application. This application seeks to substitute some of the approved plans to allow minor design alterations to the commercial element of the scheme and specifically to the building on the corner of Rugby Road and Hawley Road. The main alterations include:

#### Side Elevation to Rugby Road

- Generally - curtain walling glass corner detail to reflect construction detail
- Ground floor - WG.02 raised to avoid clash with stair landing
- Second floor - Coloured spandrel panel added to head of curtain walling reference WG.01, reduction of clear glazing under
- Third floor - Coloured spandrel panel beneath Roof 7 at head of curtain walling reference W2.02 increased, with reduction in clear glazing under

#### Rear Elevation (to Rear & Gable rear of Hawley Rd wing)

- Ground floor - WG.30 & WG.31 narrowed.
- Ground floor - door L20/481 of original design, omitted.
- First floor - north wall of stair 4, windows W1.31, W1.31.1 & W2.30, slightly revised proportions.
- Second floor - roof overhang to end of Roof 9 (adjacent to site vehicular entrance) amended for construction purposes. Previously had small step in the profile. Revised detail provides limited section of 900mm overhang within the site.

## Front Elevation to Hawley Road

- Generally - curtain walling glass corner detail to reflect construction detail
- Ground floor - Door reference EDG.02 to level threshold
- Second floor - Clear glazing substituted for coloured spandrel panel to head of curtain walling reference WG.03
- Second floor - roof overhang to end of Roof 9 (adjacent to site vehicular entrance) amended for construction purposes. Previously had small step in the profile. Revised detail provides limited section of 900mm overhang within the site.

## Side Elevation (to Rear & Gable rear of Rugby Rd wing)

- Ground floor - window replaced with roller shutter (reference EDG.06)
- Ground floor - Window WG.16 widened
- First floor - fixed glazed light added to W1.16 above, but part of, opening casement
- Second floor - Clear glazing substituted for coloured spandrel panel to head of curtain walling reference WG.25
- Second floor - Window W2.33 narrower
- Second floor - roof overhang to end of Roof 9 (adjacent to site vehicular entrance) amended for construction purposes. Previously had small step in the profile. Revised detail provides limited section of 900mm overhang within the site.
- Third floor - Window W3.02 widened
- Roof 7 – Sun pipe added over stairwell for provision of natural light. 2 x cowls from air-handling unit

Amended plans have been received to indicate the position of the proposed sun-pipe on the roof which is required to provide additional light to the third floor staircase, two ventilation cowls on the roof and to confirm the appearance of the coloured spandrel panels. In view of the minor nature of the amendments no re-consultation has been undertaken.

## The Site and Surrounding Area

The application site is 2.14 hectares and lies on the south west of Hinckley Town Centre. The site occupies a prominent location on the gateway into the town centre. This application relates only to the design of the landmark commercial building located at the junction of Rugby Road and Hawley Road which is currently under construction and scheduled for completion in early 2013. A majority of the residential areas of the site have been completed and are occupied. There are three other areas within the site, two fronting Hawley Road and one at the eastern end of Willowbank Road that are still occupied by the original factory buildings. A variety of uses including residential, commercial, and retail bound the site.

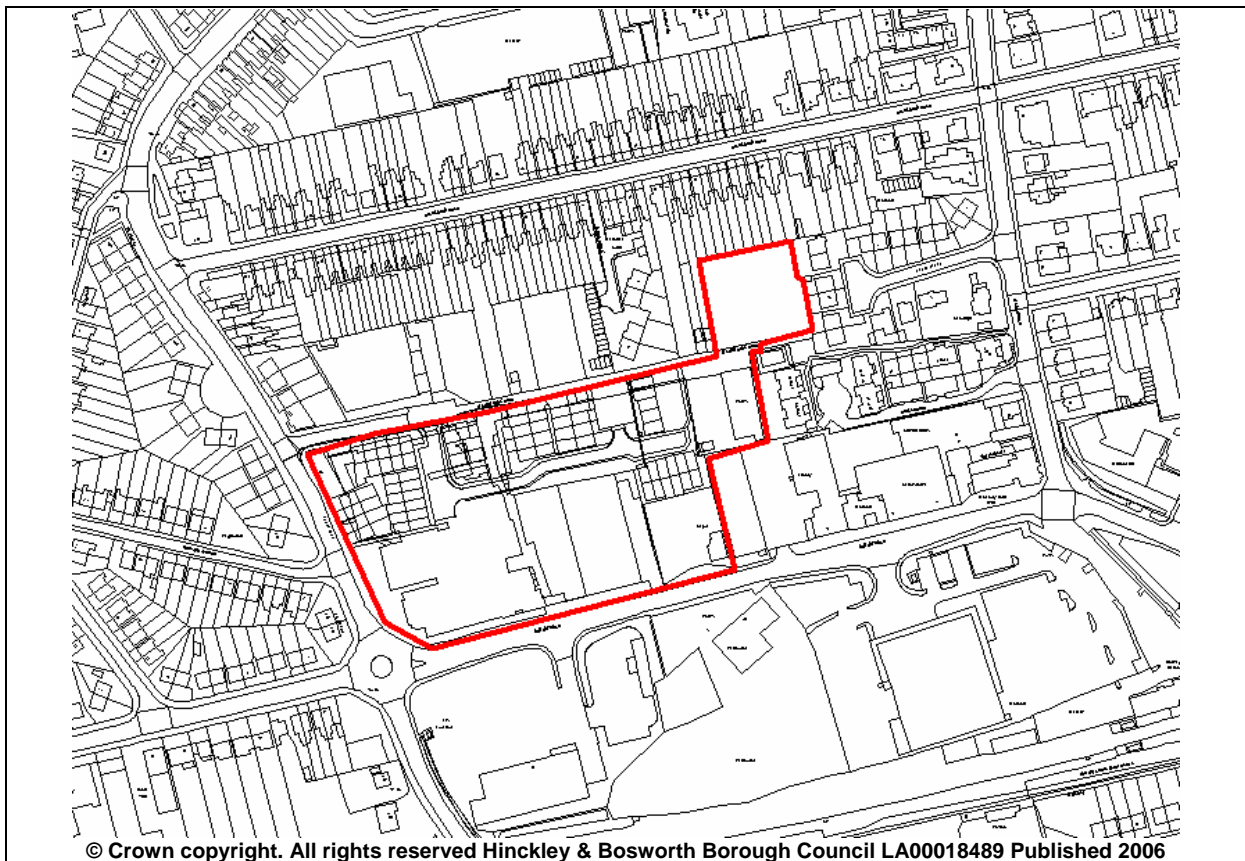
## Technical Documents submitted with application

Addendum Design and Access Statement  
Draft Section 106 Legal Agreement

## **Relevant Planning History:-**

12/00555/CONDIT	Removal of conditions 20 & 21 (highway conditions) for planning permission 10/0847/FUL, mixed use development including retention, refurbishment & extension to existing buildings & demolition	Pending Decision Awaiting Completion of s106 Agreement
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	of factory buildings to create 48 dwellings & 6 apartments with associated parking		
11/00100/CONDIT	Variation of Condition 2 of planning permission 10/00847/FUL	Approved	17.05.11
10/00847/FUL	Mixed use development including retention, refurbishment & extension to existing buildings & demolition of factory buildings to create 48 dwellings & 6 apartments with associated parking	Approved	25.01.11
09/00810/OUT	Mixed use development including retention, refurbishment & extension to existing buildings & demolition of factory buildings to create 50 dwellings and 6 apartments with associated parking	Approved	06.04.10
05/01207/OUT	Residential development & associated works	Refused	25.01.06



## **Consultations:-**

No objection has been received from:-

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

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

Site notice  
Press notice  
Neighbours.

The consultation period remains open at the time of writing and closes on 16 November 2012. Any further consultation responses received before the closing date will be reported and appraised as a late item.

## **Policy:-**

### National Policy Guidance

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

### Regional Policy Guidance East Midlands Regional Plan 2009

Policy 2: Promoting Better Design  
Policy 3: Distribution of New Development  
Policy 22: Regional Priorities for Town Centres and Retail Development  
Policy 43: Regional Transport Objectives

### Local Plan 2006-2026 Core Strategy 2009

Policy 1: Development in Hinckley  
Policy 5: Transport Infrastructure in the Sub-Regional Centre  
Policy 15: Affordable Housing  
Policy 16: Housing Density, Mix and Design  
Policy 19: Green Space and Play Provision  
Policy 20: Green Infrastructure  
Policy 24: Sustainable Design and Technology

### Hinckley Town Centre Area Action Plan

Policy 7: Rugby Road/Hawley Road

### Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development  
Policy EMP1: Existing Employment Sites  
Policy NE2: Pollution  
Policy NE12: Landscaping Schemes  
Policy NE14: Protection of Surface Waters and Groundwater Quality  
Policy T5: Highway Design and Vehicle Parking Standards  
Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities



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

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

#### Supplementary Planning Guidance/Documents

Hinckley Town Centre Strategic Transport Development Contributions SPD

Play and Open Space Guide SPD

New Residential Development SPG

#### Other Material Policy Guidance

Hinckley Town Centre Renaissance Masterplan

Employment Land and Premises Study

#### **Appraisal:-**

The mixed use development of the site has been approved in principle; with the determination of the previous planning application (10/00847/FUL) therefore the main considerations with regards to this application are the impact of the proposed variations to the approved scheme on the design and external appearance of the site and neighbouring residential properties.

#### Impact on Design and Appearance

The proposed variations to the approved plans include minor amendments predominantly relating to the design of the approved curtain walling arrangements, windows and doors. Amendments to the curtain walling and glazing arrangements are proposed in order to improve design continuity across the development and reflect construction detail.

These include the substitution of fixed clear glazed elements at the head for coloured spandrel panels and changes to the height, size and proportions of existing windows. The corner to corner glass junctions on the curtain walling have been amended to reflect the construction detail however the extent and proportion of glazing remains unaffected by this amendment. One ground floor window (WG.02) facing onto Rugby Road has been raised slightly to avoid clashing with an intermediate stairwell landing. The proportions of the window remain unchanged and match the similar windows to the stairwell on the other floors. One ground floor window (WG.15) on the east side elevation facing the access road off Hawley Road has been omitted and replaced with a new roller shutter door (EDG.06) for better access to serve the bins and goods inward store. One ground floor escape door (EDG.05) on the north side elevation facing the residential element of the development has been omitted as it is no longer required and is to be replaced with a continuation of the approved cladding panels.

The proposed variations also include amendments to the end profile of Roof 9 adjacent to the access off Hawley Road necessary for construction purposes. The amendment results in the uppermost corner having an overhang of 0.9 metres for a limited section in comparison to the 0.6 metres overhang elsewhere, however, this overhang lies within the site and does not over-sail any public footpath.

Overall, the proposed amendments to the design of the building are considered to be minor in nature and are not considered to have any significant material impact on the overall appearance of the site or the street scenes and are therefore acceptable in visual terms in accordance with Policy 1 of the adopted Core Strategy and Policy BE1 (criterion a) of the adopted Local Plan.

### Impact on Neighbouring Properties

The proposed amendments do not introduce any new window openings but include alterations to those already approved under previous permissions. As a result the impact of the windows has already been assessed and considered to be acceptable in planning terms. The increase in the height above ground of staircase window (WG.02) on the west elevation facing Rugby Road will not adversely affect residential amenity given the separation distance of approximately 25 metres to the neighbouring properties on the opposite side of Rugby Road. The substitution of ground floor window (WG.15) on the east side elevation facing the access road off Hawley Road and its replacement with a new roller shutter door (EDG.06) will have no impact on residential amenity as there are no adjacent residential properties in this commercial only part of the site. The omission of the ground floor escape door (EDG.05) on the north side elevation facing the residential element of the development will not adversely affect residential amenity.

Overall, the proposed minor amendments to the approved design of the building will have no significant impact on the amenities of any neighbouring residential properties and the scheme is therefore considered to be in accordance with Policy BE1 (criterion i) of the adopted Local Plan.

### Developer Contributions

Permission reference 10/00847/FUL (the first permission) was accompanied by both an agreement and a unilateral undertaking entered into pursuant to section 106 of the Town and Country Planning Act (TCPA) dated 25 January 2011. These obligations sought mitigation in relation to the development proposed under the permission and without which the said development would not have been acceptable in planning terms. Two further planning applications (planning references 12/00555/CONDIT and 11/00100/CONDIT) have been subsequently approved subject to deeds of variation to formally apply the obligations of the first permission to those applications.

The application the subject of this report is made pursuant to section 73 of the TCPA and approval of this application would result in a separate planning approval. The obligations and the conditions attached to 10/00847/FUL, other than those amended by the subsequent permissions 12/00555/CONDIT and 11/00100/CONDIT, remain appropriate in relation to this application and it will be necessary to enter into a further deed of variation to formally apply those obligations to this application. A deed of variation agreement is currently being prepared but has not been completed at the time of writing this report.

### Conclusion

Overall, the amended proposals are considered to improve the design and appearance of the development and as a result will not have any adverse impact on the visual amenities of the site, the street scene generally or neighbouring residential properties and are therefore acceptable.

**RECOMMENDATION:- That subject to no significant material objections being received prior to the expiry of the consultation period on 16 November 2012 and subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards the provision and maintenance of public play and open space facilities, education facilities and affordable housing requirements by 15 January 2013, the Head of Planning be granted powers to issue full planning permission subject to the conditions below. Failure to do so by 15 January 2013 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 and would not be detrimental to the visual amenities of the site, the street scene generally or the occupiers of neighbouring residential properties. The site represents one of the key regeneration areas in the Town Centre, and its redevelopment, as part of a comprehensive scheme, would contribute significantly to the Council's vision and primary spatial objectives, bringing wide ranging benefits to Hinckley Town Centre and to the Borough as a whole. The site is in a sustainable location within the Hinckley Town Centre; would meet an identified need for affordable housing and employment development in Hinckley; and would enhance the character and appearance of the area.

Policy 1 of the Hinckley and Bosworth Core Strategy supports Hinckley's role as a sub-regional centre. In this case it is the opinion of the Local Planning Authority that the development satisfies the requirements of this policy as it provides a range of employment opportunities.

Policy 5 of the Hinckley and Bosworth Core Strategy proposes transport interventions to support additional development in and around the Hinckley sub-regional centre. In this case it is the opinion of the Local Planning Authority that the development satisfies the requirements of this policy as it provides adequate transport measures to support the development of the site.

Policy BE1 of the Hinckley and Bosworth Local Plan seeks a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. It is the opinion of the Local Planning Authority that the development satisfies the requirements of this policy through a well designed scheme that has regard to the character of the area and proposes a high quality design that contributes to the character of the environment.

Relevant provisions of the development plan include:

Hinckley and Bosworth Local Plan (2001):- Policies BE1, EMP1, NE2, NE12, NE14, T5, IMP1, REC2 and REC3.

Local Plan 2006-2026: Core Strategy (2009):- Policies 1, 5, 15, 19, 20 and 24.

- 1 This permission relates to the variation of Condition 2 of planning permission reference 10/00847/FUL [the previous application] dated 25 January 2011, a copy of which is appended hereto and the conditions imposed by the decision notice in relation to the previous application shall be deemed to apply to the grant of permission in respect of application 12/00882/CONDIT [the current application] save in so far as they are amended by virtue of the decision notice in relation to the current application or where variations subsequent to the previous application have been approved in writing by the Local Planning Authority.
- 2 This permission relates to the following amended application plans:- Ground Floor Plan dwg. no. 2018(20)01N; First Floor Plan dwg. no. 2018(20)02N; Second Floor Plan dwg. no. 2018(20)03N and Third Floor Plan dwg. no. 2018(20)04N received by the Local Planning Authority on 16 October 2012; Fourth Floor and Roof Plan dwg. no. 2018(20)05S; West & North Elevations dwg. no. 2018(21)100S and Addendum Design and Access Statement received by the Local Planning Authority on 8 November 2012; and South and East Elevations dwg. no. 2018(21)101N received by the Local Planning Authority on 9 November 2012.

The following amended plans approved under permission 11/00100/CONDIT:- Site Plan dwg. no. 4402/F1; Floor Plans & Elevations Plots 41-46 dwg. no. 4402/E3; Floor Plans & Elevations Plots 10-19 dwg. no. 4402/B5; Floor Plans & Elevations Plots 20-29 dwg. no. 4402/C4; Floor Plans & Elevations Plots 30-40 dwg. no. 4402/D5; Floor Plans & Elevations Plots 10-9 dwg. no. 4402/A5 and Floor Plans & Elevations Angus Site dwg. no. 4402/H received by the Local Planning Authority on 11 March 2011.

The following plans and documents approved under permission 10/00847/FUL remain unaltered:- MRP/0750/Ppsd/10R; MRP/0750/Ppsd/11c; MRP/0750/Ppsd/12c; MRP/0750/Ppsd/13c;MRP/0750/Ppsd/14c;MRP/0750/Ppsd/15c;MRP/0750/Ppsd/16c; MRP/0750/Ppsd/43a;MRP/0750/Ppsd/44a;MRP/0750/Ppsd/70;Bir.3260\_01;Bir.3260\_02; Bir.3260\_03(1 of 2); Bir.3260\_03 (2 of 2); Bir.3260\_05; Bir.3260\_06; Design and Access Support Statement; Phases I & II Environmental Risk Assessment by Geodyne Ltd; Transport Assessment and Travel Plan by Mayer Brown; Tree Assessment Report by FPCR Ltd; Ecological Assessment by FPCR.

**Reasons:-**

- 1 To define the permission and to ensure that all other conditions attached to the original consent still apply.
- 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).
- 5 This planning permission is subject to a Section 106 Agreement.

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