

**PLANNING COMMITTEE 22 January 2013**  
**LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:**

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**ITEM 01**

**12/00889/FUL**

**Ms Elaine Smithard**

**Introduction:-**

The applicant has provided the following statement:-

All of the proposed eleven dwellings will be either for affordable rent or shared ownership (part rent/part buy).

Affordable rent is a form of social housing and was introduced by the Coalition Government in 2011. All homes funded by the Homes and Communities Agency are expected to charge an affordable rent, which is at a level of up to 80% of gross market rents.

The shared ownership properties will allow staircasing of up to 100%. Very few lenders now offer restricted equity mortgages, other than with prohibitively high deposits. Rural repurchase is now as an alternative on rural exception sites. In the event that a resident has staircased to 85% or above, and wishes to sell and move on, the Association will buy back the property. The property will then be re-sold to another applicant (who meets the local connection criteria) at an initial 25% or 50% share.

**Consultations:-**

Carlton Parish Council have confirmed that Councillor Mike Cooper is not a member of Carlton Parish Council, nor, according to our websites, a member of HBBC or Leicestershire County Council and whilst may be a member of some other Council, or some other kind of Councillor, does not merit special consideration being given to his comments on this planning application.

Based on the above comment for clarification the comments report on page 6 and 7 of the main agenda under the heading of 'Councillor Mike Cooper' are not comments of a local Councillor.

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**ITEM 02**

**12/00873/FUL**

**Mr Peter Mayne**

**Introduction:-**

The latest plan showed the retention of the mature oak tree. Following this retention, and requested improvements from officers, the applicant has produced and updated all plans to show the retention of the mature oak tree, loss of solar PV panels to this location and re-location of them to the end of existing solar strings, re-siting of the mound to the boundary with the recreation ground and changes to the tree and hedgerow species.

For the avoidance of doubt the revised plans received are entitled Site Block Plan, Detailed Planting Proposals Plan and Wildflower Meadow Detail Plan.

Given there are no changes to the number of solar PV panels and the changes relate to a minor re-positioning of the mound, and other minor improvements, no formal re-consultation has been formally undertaken.

For the avoidance of doubt the number of panels is 7,870 and the number of inverters is 50.

The applicant has confirmed that they are willing to provide netting, if it deemed necessary at the planning committee, however agree with comments provided by Stoke Golding Heritage Group that "the requirement to erect a high netting above the fence should be re-assessed as a resident who watches matches on a regular basis has not seen balls crossing the boundary at this height".

## Consultations:-

Sport England raises concerns that the impacts of the proposal on the future uses of the site as playing field should be properly considered in the determination of the planning application. They provide the following specific comments:-

- 1) the screening/ball stop fencing might not be appropriate in this location, given the height requirements
- 2) there are other examples of development next to cricket pitches – planning inspectors have both allowed permission and refused permission in part on the ground where there is the potential risk to future occupiers of the adjacent houses. The England and Wales cricket board have come across this before and have stated that the club will be liable for damage to property and persons from ball strikes, the club have a duty of care in civil law and therefore a responsibility to undertake a risk assessment and potentially mitigate against the risk. They consider mitigation is likely to require a ball stop fence, in excess of 10 metres in height which is likely to cost up to £50,000 plus maintenance
- 3) glint and glare from the panels may not be an issue as the orientation of the panels is south, however this matter ought to be addressed
- 4) will the impact of flood risk from the development increase problems at the recreation ground?

Sport England maintain that there appears to be a strong case that the proposals could affect/prejudice the use of the playing fields and therefore Sport England should be consulted on a statutory basis, and therefore given the opportunity to assess the issues or raise questions if those issues have not in our opinion been satisfactorily answered.

Stoke Golding Parish Council state that the majority of residents oppose the development and have valid objections supported by planning policies; accordingly the Parish Council agrees to strongly oppose the development on behalf of the residents. Should the application be approved, however, Stoke Golding Parish Council wishes for the following conditions to apply:-

- 1) the applicant shall implement in full the final landscaping features detailed in their application (to include wildflower conservation area, with the security fencing and bund to be relocated along half the boundary with the recreation area and the bund being overplanted with shrubs and hedges to hide the security fence
- 2) the facility must not breach appropriate legislation on nuisance caused by noise
- 3) appropriate measures will be provided to ensure that flooding does not impact on adjacent areas.

Seven additional letters of objection have been received stating:-

- 1) inadequate noise assessment, FRA archaeological and landscape and visual impact reports and the planning statement contains out of date policies
- 2) landscaping and screening proposals that are inconsistent and ambiguous
- 3) application has been rushed, documents are undated or wrongly dated, no consistent and no overarching documents pulling information together
- 4) failure to provide a proper application, application is invalid and must be withdrawn and re-submitted when all the necessary information is available to an acceptable standard
- 5) lack of public consultation and re-consultation
- 6) no expert to assess the landscape and visual impacts
- 7) failure to properly address the impact upon recreational amenity
- 8) the manner in which the application has been assessed through the committee report is fundamentally flawed; unlawful to grant planning permission; no specific development plan policies, report does not assess the impact upon the visual landscape
- 9) no assessment of the public views from the recreation ground; no assessment of character
- 10) failure to address Stoke Golding residents valid objections
- 11) application should be deferred
- 12) new security fencing information added
- 13) new substation enclosure drawing
- 14) visualisations that miss out important details such as the fencing and solar panels
- 15) inverters that move around the site and multiply

- 16) no detailed information regarding existing material and protection measures for existing trees during construction
- 17) no definitive quantities or numbers and varying tree girth sizes
- 18) no established and long term management plans for the wildflower meadow
- 19) in-consistencies between the planting schedule and the key
- 20) the mound is still located within the existing crown spread
- 21) the original scheme and subsequent revised planting scheme has not been produced by any qualified professional landscape designer a suitable person or practice should be commissioned
- 22) adverse visual impact, out of character eye sore; 2.15 metres panels and 2.4 metres fencing is now low and will dramatically change the character of the area
- 23) does not adhere to the three principles of sustainability enshrined in the NPPF; report relies upon the benefit of providing renewable energy and cannot be considered sufficient to outweigh the harm identified
- 24) concerns of the cricketers have been dismissed regarding insurance claims; who would be liable?
- 25) strong possibility that clubs and teams will need to find alternative premises
- 26) failure to consult Sport England
- 27) no local benefits; scheme needs to be proposed under a co-operative format
- 28) HBBC does not have policies on solar power and ignore or minimise NE5
- 29) scale too large in such a small village
- 30) key omissions – ignoring Stoke Golding Parish Council’s objections to the proposals
- 31) questionable balancing of planning laws
- 32) absence of a formal screening opinion on an Environmental Impact Assessment; the application does have significant environmental effects
- 33) contrary to para 66 of the NPPF which requires applicants to work closely with the community
- 34) the loss of the best and most versatile agricultural land is a material consideration in this case
- 35) politics and fear of a claim from the applicant against non determination are influencing this irrational objective recommendation
- 36) council Risk Strategies should ensure there are adequate policies to protect the council against claims.

### **Appraisal:-**

#### Landscaping

Plans received prior to writing the report showed the retention of the mature oak tree sited within parcel 3 as already reported in the main agenda.

Amended plans have subsequently been received showing a set back of the mound from the existing boundary with the adjacent recreation ground further into the development site, which reduces the competition for sun light and thus allows for greater establishment of the specimens. In addition, revisions to tree and hedgerow species and densities are welcomed as they are native, suited to the conditions and offer a greater chance of survival and establishment.

The condition is recommended to be retained which requires details of a full compressive landscaping scheme, including details of boundary treatments and security fencing and ensures that the approved scheme is maintained for a period of five years from the date of planting.

#### Impact upon Residential Amenity

The Head of Community Services (Pollution) has no further comments in respect of the minor changes to the layout.

In response to specific concerns raised the Head of Community Services (Pollution) has re-confirmed that the inverters will only operate during daylight hours and on the understanding that such inverters operate within peoples homes (those who have solar panels on their roofs) also leads him to the conclusion that a significant impact will not be generated.

The Head of Community Services (Pollution) also confirms that he has made attempts to identify resources that would indicate concern from low frequency noise but has failed to identify any. The Head

of Community Services (Pollution) concludes that there is no known evidence that inverters produce such low frequency noise levels that would cause concern.

### Letters of Representation

All those originally consulted and those who had made representations have been re-consulted twice on plans provided and consultation periods have been continually extended. The latest plans show minor changes to the scheme and it is not necessary to re-consult on every minor change to the scheme. It is not unusual for changes to be made during the course of an application again in line with the National Planning Policy Framework requirement that Local Authorities work proactively with developers to resolve problems during the course of applications.

Original objections expressed by the Environment Agency and the Directorate of Chief Executive (Archaeology) have both been overcome.

The Environmental Impact Assessment screening opinion has now been made publically available. For the avoidance of doubt the proposed development was screened by the Local Planning Authority 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 to be submitted for consideration. Based on the information provided it was concluded that the proposed solar panel farm was not EIA development and therefore an Environmental Statement was not required.

In respect of comments relating to the lack of specific policy, the NPPF is clear that where a plan is silent on an issue then National Policies should take precedence. It does not advise that development should be delayed because of the lack of a relevant policy.

### 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. There is specific planning policy support for renewable energy projects both at national, regional and local level. There have been no identified significant impacts upon the character or appearance of the countryside, the adjacent recreation ground, occupiers of surrounding residential properties or any other material impacts that would indicate that the proposal is not in compliance with local development plan policies and overarching government guidance.

### **Recommendation:-**

**In light of the consultation response from Sport England to defer the application for further consideration of the development on the impact upon the recreation ground.**

Condition 2 amended as follows:-

The development hereby permitted shall not be carried out otherwise than in complete accordance with the details: Location Plan Drawing No. 01S; Solar Panel Detail Drawing No. 03S; Inverter Substation Detail Drawing No. 06S; Substation and Control Room Detail Drawing No. 07S; Security Fence Detail Drawing No. 05S received by the Local Planning Authority on 29 October 2012 and amended details: Site Block Plan Drawing No. 02S; Detailed Planting Proposals 07S and Wildflower Meadow Detail Drawing No. 08S received by the Local Planning Authority on 14 January 2013.

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

**Consultations:-**

Director of Chief Executive (Archaeology) has submitted further comments justifying an additional condition.

**Appraisal:-**Archaeology

The initial survey works indicated that significant archaeological remains from the iron age were found and, given surrounding known remains, it is extremely likely that there are others within the area of development. Any remains found will need to be appropriately surveyed and recorded prior to the development taking place. The NPPF places a responsibility on Local Planning Authorities to take into account the impact of the development on the heritage asset and given the advice from the Director of Chief Executive (Archaeology) it is considered necessary to impose a condition to record any archaeological remains prior to them being lost through the development. The Director of Chief Executive (Archaeology) has commented that it is unlikely the remains are of such significance to prevent the development going ahead. An appropriate worded condition is therefore recommended.

**Recommendation:-**

Details of the depth of the balancing pond have been received and condition 2 has been amended as follows to incorporate the plans:-

The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: OS Site Location Plan (scale 1:2500), F11075/01A (Proposed site access arrangements), 08.760.001 a (landscape masterplan), JD/NFBR/01 (REV A) (Proposed site plan), JD/NFBR/03 (REVA) (Proposed cow barn), JD/NFBR/02(REVA) (Proposed site sections and elevations), JD/NFBR/05 (proposed replacement farm dwelling) received 12 November 2012. Balancing pond details- plan, balancing pond details- section. received 17 January 2013.

Additional conditions following archaeological comments:-

11 Notwithstanding the submitted archaeological evaluation reports, no development shall take place until a scheme of archaeological excavation and recording (Strip, Plan and Record), including a Written Scheme of Investigation, is submitted to and approved in writing by the Local Planning Authority. The scheme 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) Provision to be made for analysis of the site excavation and recording
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e) Provision to be made for archive deposition of the analysis and records of the site excavation
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

Reason: The initial trial trenching found significant archaeological remains within the development area indicating a high possibility that the proposal will disturb other archaeological remains which will require appropriate recording and investigation prior to the development being commenced. In accordance with Policy BE16 of the Hinckley and Bosworth Local Plan and Section 12 of the NPPF.

12 The proposed development shall be undertaken in accordance with the approved Written Scheme of Investigation. The development shall not be occupied until the approved scheme of archaeological site investigation and post investigation assessment has been completed and provision made for the analysis, publication and dissemination of results and archive deposition has been secured.

Reason: The initial trial trenching found significant archaeological remains within the development area indicating a high possibility that the proposal will disturb other archaeological remains which will require appropriate recording and investigation prior to the development being commenced. In accordance with Policy BE16 of the Hinckley and Bosworth Local Plan and Section 12 of the NPPF.

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**ITEM 05**

**12/00992/FUL**

**Mr Spiby**

**Consultations:-**

Four further representations have been received raising the following additional concerns:-

- m) 230 cattle in close confinement will harm the environment more than 10,000 people.
- n) loss of value to property.

**Appraisal:-**

The environmental impact of farming activities is controlled by the DEFRA and the Environment Agency. Loss of value is not a material planning consideration.

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**ITEM 06**

**12/00821/FUL**

**Cartwright Homes Ltd**

**Introduction:-**

A further amended site layout plan has been received to provide a pedestrian link from the proposed development directly into Richmond Park. Re-consultation with the Highway Authority and neighbours has been undertaken.

**Consultations:-**

Following receipt of an amended site layout plan to provide a pedestrian link into Richmond Park, the Director of Environment and Transport (Highways) has no objection to the application subject to conditions.

The consultation period remains open and expires on 28 January 2013.

**Appraisal:-**

Layout and Design

The amended site layout plan (drawing no. 101G) provides a pedestrian link directly from the development into Richmond Park which in turn provides a sustainable traffic free link to the nearby school and a link to the retail and employment sites to the north. In order to achieve this, the house type on plot 37 has been amended and the dwellings on plots 33 to 41 slightly relocated. The amendments result in a significant benefit to the permeability of the development site and the existing Richmond Gate development beyond whilst having no adverse impact on the layout or design of the development or the character of the area and are therefore acceptable. The Head of Corporate and Scrutiny Services (Green Spaces) has confirmed verbally that the proposed pedestrian link into Richmond Park is acceptable in principle.

Impact on Neighbours Amenities

The amended site layout results in the side (gable) elevation of Plot 33 being relocated 0.6 metres closer to the site boundary and at its closest point (at the front corner) approximately 13.4 metres from the rear elevations of the neighbouring properties to the east (Nos. 40 and 42 Richmond Gate). Whilst this is marginally less than the 14 metres separation distance suggested in the Council's adopted SPG on New Residential Development, the side elevation of Plot 33 angles away from Nos. 40 and 42 and does not

project across the entire garden of either neighbouring property and this relationship is therefore considered to be acceptable in this case.

### Highway Safety

The amended site layout provides a pedestrian link into Richmond Park adjacent to Plot 41 in the north west corner of the site which avoids the enclosed formalised sports facilities to the rear of the Hinckley Club for Young People (Green Towers) and is of a length which allows the path to be graded to mitigate the change in level of approximately 2 metres between the application site and the park. As a result the Director of Environment and Transport (Highways) has no objection to the application subject to the provision of the pedestrian link. Whilst initially recommending that this should be provided prior to first occupation of any of the dwellings, in view of the viability issues related to the development it has been agreed verbally that this requirement can be relaxed. A condition requiring the link to be provided before occupation of the 22nd dwelling is therefore recommended.

### **Recommendation:-**

**RECOMMENDATION:- That the Head of Planning shall be granted powers to grant planning permission for the development subject to no new significant planning objections being received before the expiry of the consultation period on 28 January 2013, permit subject to the following conditions:**

Amend Condition 2 to relate to amended Site Layout Drawing No. 101G received by the Local Planning Authority on 17 January 2013.

### Additional Conditions

- 11 No development shall commence until full details of the pedestrian links from the development to both Richmond Park and Richmond Gate have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details and the pedestrian links completed prior to the occupation of the 22nd dwelling. Once provided the pedestrian links shall be retained as such at all times thereafter.

Reason: In the interests of the sustainability of the development and to accord with Policy T9 (criterion a) of the adopted Hinckley and Bosworth Local Plan.

- 12 Notwithstanding the submitted details, the first floor bathroom window on the north east side elevation of Plot 33 (facing 40 and 42 Richmond Gate) shall be obscurely glazed and fixed and thereafter maintained at all times thereafter.

Reason: To protect the privacy and amenity of the occupiers of neighbouring properties to accord with Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan.

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**ITEM 07**

**12/00942/FUL**

**Mr Steve Powers**

### **Consultations:-**

Burbage Parish Council repeat their objection to the application on the same grounds as reported in the main agenda and that the development would be significantly detrimental to the amenities enjoyed by the occupiers of neighbouring properties due to consideration of privacy, disturbance and overbearing effect.

### **Appraisal:-**

The issues raised by Burbage Parish Council have been addressed within the appraisal section of the main report.

**Introduction:-**

An amended plan has been submitted which includes the addition of minor architectural detailing features. Given the minor nature of the amendments no re-consultation has been undertaken.

**Recommendation:-**

Amend Condition 2 to refer to the amended plan drawing No. 01 Rev A received 14 January 2013.

Amend Condition 4 to refer to Santoft Antique Slate 20/20 plain clay roof tile (320 millimetres x 215 millimetres).

**Consultations:-**

The Head of Community Safety (Pollution) has conducted a further noise assessment within the recent cold spell and the results of which are summarised within the appraisal. No objection is raised to the removal of the condition.

One further letter of objection has been received from the same objector reported in the main agenda, this highlights concerns that the noise testing carried out is inadequate as testing in the summer months has not been carried out.

**Appraisal:-**

The site was visited and further noise monitoring has been undertaken at the site on the 10 January 2013 when the temperature was 3 deg C at 9:50 am to address concerns raised that the air conditioning unit is noisier during extreme weather conditions. The unit was only tested on the heating function. Previous monitoring was undertaken in October where the outside temperature was 12 deg C.

The readings were taken in freefield conditions 3.5m from reflective surfaces, 1.4m from the ground in the nearest sensitive receptor, this case the rear garden of 4 Clarendon Road. The temperature within the conservatory was lowered to 8 deg C, which, with the unit in operation increased to 22 deg C. Internally there was no appreciable fluctuation in noise level at any point during the monitoring period.

The monitoring periods were brief due to the adjacent roadworks; however it was possible to isolate a period of time where the results were not contaminated by background noise, wind or birdsong that were the dominant noises during the assessment in October.

Table 1 shows the results of monitoring 10 January 2013. Rear garden of 4 Clarendon Road

Location	Recording	Time	period	Laeq (dB)	L90 (dB)
Freefield	Unit on hot	10:04-32 – 10:08:49	4:05	42.9 (48.0)	41.3 (44.6)
Freefield	Unit off	09:54 – 10:01	06:11	42.6 (47.0)	41.3 (43.0)

The results within the table above demonstrate that whilst operational the unit falls within guideline levels for outdoor areas under the World Health Organisation Guidelines for Community Noise (50 db for moderate annoyance). The results from the monitoring carried out in October are contained within the main body of the report and included in brackets above for direct comparison.

An assessment has also been carried out under BS4142: Method for Rating industrial noise affecting mixed residential and industrial areas using the above measurements. BS4142 assesses the likelihood



of complaints by subtracting the measured background noise levels from the rating level (the reading with the noise source on). The greater the difference, the greater the likelihood of complaint. A result of 5-10dB difference indicates an increase of marginal significance whilst a score of over 10 dB indicates that complaints are likely.

The readings were awarded a 5dB penalty as the noise contains a hum and may stop and start throughout the day. The assessment therefore represents the worst case scenario.

In this case a score of 1.5 was calculated, compared with 6.3 in October, below the range of even marginal significance.

Based on the above results the Head of Community Safety (pollution) has no objection to the removal of the condition. The complainant has been informed that should noise levels increase to contact the Head of Community Safety (pollution) to arrange for ongoing monitoring of the situation.

**PLANNING COMMITTEE**  
**22 JANUARY 2013**  
**SPEAKERS**

<b>Item</b>	<b>Application</b>	<b>Speaker(s)</b>	<b>Applicant/objector</b>
01	12/00889/FUL	Mr M Price	Agent
02	12/00873/FUL	Mr B Lamb Mr S Wiseman	Objector Agent
05	12/00992/FUL	Mr D Bennett	Agent
07	12/00942/FUL	Mr R Abell Mr D Barnes	Objector Agent
08	12/00998/FUL	Mr J Penman	Applicant
09	12/01012/FUL	Mr P Plant / Mr Klenk	Agent / applicant