

PLANNING COMMITTEE

22 July 2014

RECOMMENDATIONS OF CHIEF PLANNING AND DEVELOPMENT OFFICER

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: 14/00025/COU
Applicant: Mr Robert Lynch
Location: Land Adjacent Carousel Park Stapleton Lane Barwell
Proposal: Change of use of agricultural land to 7 showman's yards and the creation of a new access
Target Date: 25 April 2014

Introduction:-

This application seeks full planning permission for the change of use of land from agricultural use to seven showmen's yards and the creation of a new access for the use of families whom fall under the definition of showmen as defined in Annex 1: Glossary to the 'Planning Policy for Travellers Sites.

The application site is located to the west of Stapleton Lane, opposite the existing Travelling Showmen's Site known as Carousel Park. It comprises an area (02.22hectares) of level pasture lying within a gently undulating landscape of regular hedgerow-bounded fields. A 1m post and rail fence forms the boundary to Stapleton Lane with some individual trees and is therefore fully open to view on the approach/exit from Barwell. A public footpath and the head of the Tweed River lie just beyond the south western side of the field. There is an existing gated access in the north eastern corner. Barwell village lies to the south east.

The application proposes 7 yards for travelling showpeople. "Travelling showpeople" means:-

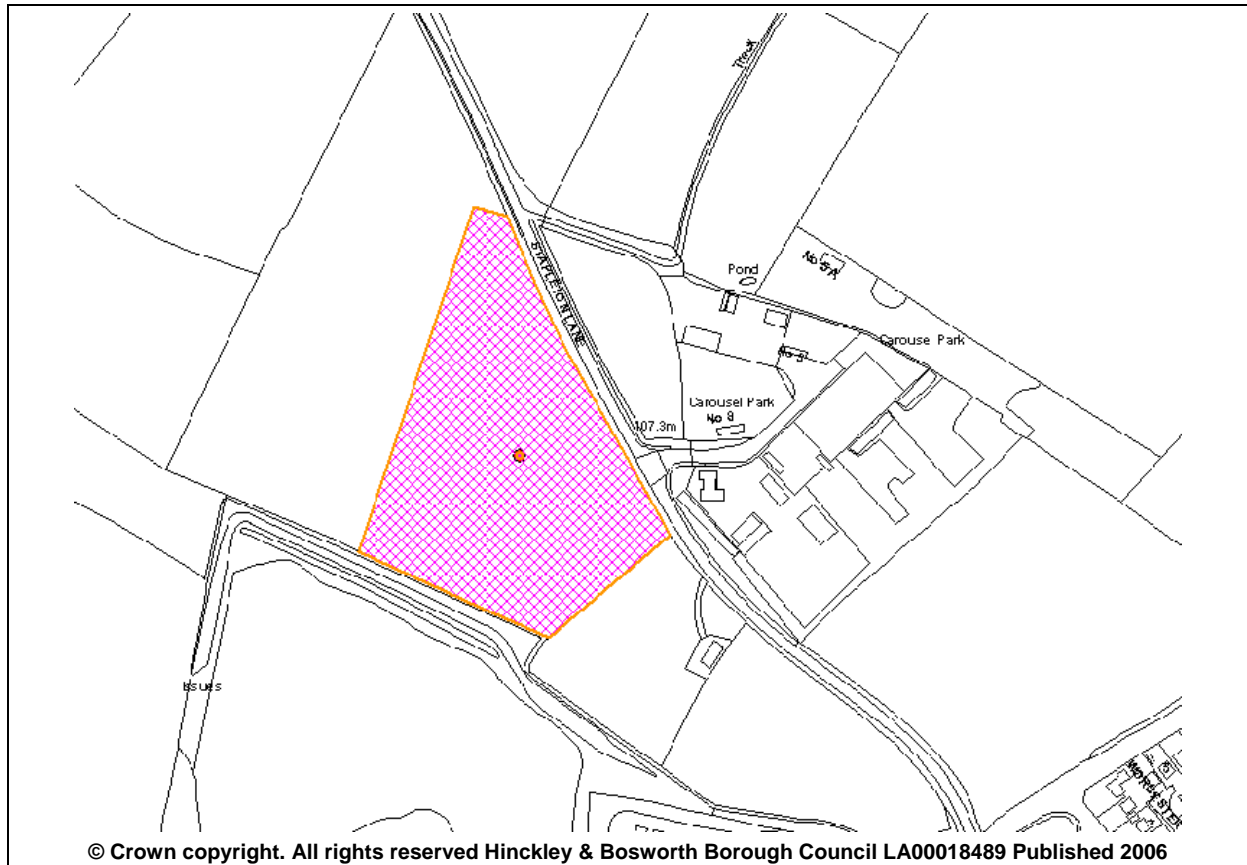
Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers.

The terminology differentiates between residential pitches for "gypsies and travellers" and mixed-use plots/yards for "travelling showpeople", which may/will need to incorporate space or to be split to allow for the storage of equipment.

The 7 yards will each have space for a mobile home, a touring caravan, a specialist caravan, a storage building, maintenance area, recreation area and additional parking spaces. The yards will be subdivided by landscaping and an internal road will provide access to each yard. A 1.8m high fence is proposed along the site perimeter behind a new hedge and tree planting.

Relevant Planning History:-

None relevant.



Consultations:-

No objections received from Director of Property Services (Gypsy Liaison).

No objection subject to conditions has been received from:-

- Head of Community Services (Pollution)
- Head of Community Services (Waste)
- Director of Environment and Transport (Highways)
- Head of Community Services (Land Drainage).

No objection has been received from Barwell Parish Council.

At the time of writing the report no comments have been received from:-

- Peckleton Parish Council
- Directorate of Chief Executive (Ecology).

Site notices were displayed and neighbours notified.

One neighbour representation has been received, neither objecting nor supporting the application. The comments are summarised as:-

- a) granting permission would be a poor decision as Carouse Park should not have been located in this area in the first place. Housing from the proposed SUE will mean residents being located closer to the site
- b) predict an increase in noise complaints from the proposed site
- c) visual impact to visitors to the area

- d) the planning traffic calming along Stapleton Lane was presumably to deter traffic once housing development starts. Also, weight restrictions on vehicles is a consideration
- e) hope that HBBC will look for alternative site for Showmen to give them scope for future expansion and better transport links rather than let Barwell SUE box them in.

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012
Planning Policy for Traveller Sites (March 2012)

Local Plan 2006 -2026: Core Strategy 2009

Policy 3: Development in Barwell
Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople
Policy 24: Sustainable Design and Technology

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development
Policy NE5: Development in the Countryside
Policy NE10: Local Landscape Improvement Areas
Policy T5: Highway Design and Vehicle Parking Standards

Other Material Planning Guidance

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment (GTAA) 2006-2016 identifies the needs for gypsies and travellers within the Borough up until 2016.

In 2012 Leicester City Council, again in partnership with the other Leicestershire and Rutland local authorities, commissioned De Montfort University to undertake a 'refresh' of the Gypsy and Traveller accommodation needs in the area. The final version of this 'refresh', which now supersedes the 2006-2016 assessment, was completed in May 2013. Hinckley and Bosworth Borough Council did not take part in this study and undertook their own separate GTAA.

Hinckley and Bosworth Borough Council Gypsy and Traveller Accommodation Needs Study (GTAA) dated January 2013.

Appraisal:-

The proposed development is for 7 showmen's yards for Travelling Showmen.

The County Council Traveller Site and Liaison Officer has submitted a letter supporting the application and confirming that the occupants meet the definition of 'Travelling Showpeople' in accordance with the definition contained within the Planning Policy for Traveller Sites document. The Officer also verifies the applicant's details and needs of the site. Therefore, the main issues for consideration in respect of the application are the principle of development, whether the development satisfies the criteria within the NPPF, Planning Policy for Traveller Sites and Policy 18 of the Core Strategy, and its impact on the surrounding countryside, neighbours and highway safety.

Whilst being located within the countryside, sites for Gypsy and Traveller development do not need to be considered against the requirements of Policy NE5. Policy 18 of the Core Strategy supersedes NE5 in this respect. This position has been confirmed in a number of recent appeal decisions. Compliance with Policy 18 is discussed later in the report.

'Planning Policy for Traveller's Sites' published on the 25 March 2012 came into effect on the 27 March 2012, and must be read in conjunction with the National Planning Policy Framework (NPPF). Circular 01/06: Planning for Gypsy and Travellers caravan Sites and Circular 04/07: Planning for Travelling Showpeople were cancelled upon the adoption of the NPPF and are no longer material considerations. As such, in accordance with Section 38(1) of the Planning and Compulsory Purchase Act 2004, this application should be determined against the policies in these documents. Policy H of the 'Planning Policy for Traveller's Sites' (in paragraph 22) states that local planning authorities should consider a number of issues amongst other relevant matters when considering planning applications for travellers sites. These issues are discussed below-

a) The existing level of local provision and need for site.

Hinckley and Bosworth Borough Council Gypsy and Traveller Accommodation Needs Study (GTAA) dated January 2013 identifies a need for seven plots to adequately meet the future needs for Showmen over the next 15 years.

In the Borough there is one yard for travelling show people which is known as Carousel Park at Stapleton Lane. Carousel Park currently contains 8 plots and represents an authorised permanent base for the families. This need for 7 plots is generated from new household formation associated with the families that occupy the Carousel Park site. The GTAA (paragraph 6.29) states that 'the Showmen have identified that children and young adults, currently living at home with their parents, will want their own family accommodation in the near future'.

As there is a deficit of 7 plots within the Borough, there is clearly an insufficient level of local provision and a need for this site having regard to the requirement of the GTAA. Approval of the application would meet the current shortfall in pitches.

b) The availability (or lack) of alternative accommodation for the applicant

As mentioned above, Carousel Park is the only site for travelling Showmen in the Borough and is currently full. As such there are no other known yards within the Borough and no suitable alternative accommodation available to the applicants.

The Council cannot currently demonstrate a five-year supply of deliverable sites. Paragraph 25 of the National Guidance indicates that, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. This should be noted and weighed in support of the application subject to the technical assessment of the site specific issues.

c) Other personal circumstances of the applicant

Confirmation has been received from the County Council Traveller Site and Liaison Officer in respect of the occupiers of the site. This site would provide a permanent base for the children and young adults currently living at home with their parents on the existing Carousel Park who want their own 'family accommodation' in the near future. Currently the existing 8 yards on Carousel Park are occupied by 17 families. There are 5

families within that group with an interest in the application site. They have between them 18 children with ages ranging from 2 to 27. 5 of the children are in their twenties and looking to form separate households whilst staying within the Showmen's business therefore requiring spaces for their own accommodation and equipment. The remaining two yards are being developed for future occupation.

The applicant can demonstrate strong local connections to the area and specifically in relation to Carousel Park where they have had a yard for the past 23 years.

- d) That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess application that may come forward on unallocated sites.

The locally specific criterion in this case is adopted Local Plan 2006-2026: Core Strategy Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople, and the application is assessed against this policy.

- e) That Local Planning Authorities should determine application for sites from travellers and not just those with local connection.

The applicants have lived/worked within Carousel Park for approximately 23 years. As explained above, the site is intended to be occupied by the families who currently reside at the existing Carousel Park site. A condition is proposed to ensure that occupation of the dwelling is limited to members of the Showmen's Guild of Great Britain, or retired members of the Guild, or a widow or widower of such persons, and to any resident dependents

Paragraph 23 of the Planning Policy for Traveller's Sites states that Local Planning Authorities should strictly limit new traveller site development in the open countryside. In this respect, the issues of scale and the availability of local services will be discussed in further detail below, as these are locally specific policy criteria contained within Policy 18 of the Core Strategy.

Finally within paragraph 24 of the Planning Policy for Traveller Sites, the policy requires local planning authorities to attach weight to the following matters:-

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

Whilst the application site is not previously developed, untidy or derelict, it offers the opportunity for a well planned site adjacent to the established Carousel Park for travelling showpeople. The proposal provides a layout that offers soft landscaping measures to compliment the existing mature landscaping around the site and provides amenity/play areas for occupiers and their children.

In summary it is considered that the proposal is in general conformity with the overarching principles of 'Planning Policy for Travellers Sites'.

Local Plan 2006 - 2026: Core Strategy Policy 18

Policy 18 of the adopted Core Strategy confirms the Council's commitment to provide sites for gypsies, travellers and travelling showpeople within the context of the policy's criterion and as such implies a presumption in favour of such development. This is generally consistent with the intentions of the Planning Policy for Travellers Sites.

Proximity to Settlement/Local Services (Sustainability)

Policy 18 states that where a proposed site is not within or adjacent to a settlement boundary, it should be located within 'reasonable' distance of local services and facilities (including shops, schools and healthcare), although what constitutes a 'reasonable' distance is not quantified.

The application site is located immediately adjacent to the existing Carousel Park travelling showpeople's site which is approximately 200m outside the boundary of Barwell. Given the sites location it is considered that it is within 'reasonable' distance of Barwell and the services and facilities provided, as required by Policy 18.

Highway Safety

Policy 18 requires Gypsy and Travellers Sites to have a safe highway access as well as adequate provision for parking and services.

The application proposes a new access to the north of the existing Carousel Park entrance which is located on the opposite side of Stapleton Road.

The Director of Environment and Transport (Highways) has recommended approval of the application as the proposals are considered acceptable from a highway point of view, subject to conditions.

Sympathetic Assimilation within the Countryside

Policy 18 requires that gypsy and travellers sites should be capable of sympathetic assimilation to their surroundings. The site is currently bounded by all sides by hedgerows and trees, with the exception of the eastern boundary fronting Stapleton Lane. This is the most sensitive boundary for views into the site when travelling along Stapleton Lane. The application proposes a tree belt along this boundary in order to minimise any visual impact. Whilst this is a new development on a previously undeveloped site, it is not considered to be out of character given the proximity of the existing Carousel Park site.

It is considered that due to the equipment associated with Showmen's yards, there will be some impact on the rural landscape. However, additional landscaping is proposed to soften the appearance of the development and minimise any visual impact upon the countryside. This will be requested by way of condition. This is considered in accordance with point b, paragraph 24 of the 'Planning Policy for Travellers Sites', which suggests that sites should be soft landscaped in such a way as to positively enhance the environment. This is also in accordance with Policy NE10 which identifies Stapleton Road as an area of poorer landscape quality where there is scope for landscape improvement.

On balance, the proposals are considered to meet the requirements of Policy 18 of the adopted Core Strategy.

Scale

The Policy requires the proposal to be acceptable in relation to the level of provision of local services and infrastructure. The application proposes to accommodate a total of seven yards for Travelling Showmen. Although the site is not situated within a defined settlement, due to the sites proximity to the urban area of Barwell, the scale of site proposed is considered appropriate.

Residential Amenity

Notwithstanding Carousel Park, the closest residential properties to the site are those to the south east, with the nearest property being approximately 400m from the site. Whilst there may be additional noise from the increased number of vehicle trips to and from the site, given that only 7 yards are proposed, on balance it is considered that the number of additional trips generated by the application will not result in a material level of harm to the detriment of the residential amenity. Accordingly there are considered to be no adverse impact on the residential amenity of surrounding properties.

Safe and Healthy Environment for Residents

The Policy requires proposed sites to provide a safe and healthy environment for residents in line with the design guidelines in the National Guidance (Designing Gypsy & Travellers Sites, Good Practice Guide). This states that many Gypsies and Travellers express a preference for a rural location which is on the edge of, or closely located to a large town or city consistent with traditional lifestyles and means of employment. This site would meet this aspiration. It goes on to say that sites should not be situated near hazardous places as this will have a detrimental effect on the general health and well-being of the residents and pose particular safety risks for young children. The site is flat (not exposed) and not located on contaminated land or within a flood risk area.

The Good Practice Guide goes on to stipulate that essential services (mains water, electricity, drainage and sanitation) should be available. Although the provision of the above services has not been specifically identified within this application, there is the capacity to provide these services within the site. Information has been submitted confirming that the site will be connected to the main sewerage network.

Based on the above, the site is considered to be compliant with Policy 18 in respect of providing a safe and healthy environment or occupants of the site.

Design and Layout

Showmen's needs with respect to permanent parking sites differs significantly from any other 'traveller; group, as acknowledged in the Planning Policy for Travellers Sites. The biggest difference is the accompanying equipment, i.e. vehicles, rides, stalls etc and the need for adequate space for regular maintenance and repair. Showmen's sites thus require more space than would typically be needed for any other traveller group.

The Good Practice guide states that sites of various sizes, layouts and pitch numbers operate successfully and work best when they take account of the size of the site and the needs and demographics of the family's resident on them with the safety and protection of children in mind. Due to the need for residents to store and maintain fairground equipment, the yards are design to have space for a mobile home, a touring caravan, a specialist caravan, a storage building, maintenance area, recreation area and additional parking spaces.

When assessing the proposal against the Guide criteria, with reference to size and layout of sites, it suggests that consultation with the traveller community should be undertaken. In this case, this is a private site, meaning there are no defined standards in terms of design.

The design of the site affords amenity space and a degree of privacy for the individual pitches whilst providing natural surveillance. Unfortunately there are no specific standards in the guidance for showmen sites. The Guide does state that 'where joint commercial/residential use is envisaged for a site (as in the case of showpeople's sites because of the need for residents to store and maintain fairground equipment), it is important that the compatibility of both of these uses with the surrounding land uses is given careful consideration.' It is considered that the design of the site takes this into account and follows a similar design to that of the existing Carousel Park located opposite the site.

Other Issues

Policy 3 of the adopted Core Strategy sets out that, to support the regeneration of Barwell, the Council will allocate land to the west of Barwell for the development of a mixed use Sustainable Urban Extension (SUE). Whilst this is not a site allocation, it does set out the general policy direction for growth to the west of Barwell surrounding the existing Carousel Park site. Policy 3 sets out that detailed requirements for the SUE will be set out in an Action Plan. All development must be in conformity with this Area Action Plan (AAP). No piecemeal development will be permitted.

Members of Planning Committee resolved to grant outline planning permission (subject to section 106 agreement and range and scope of all conditions) on 23 April 2013 for a Sustainable Urban Extension to Barwell which would mean that the boundary of Barwell will considerably change. Whilst the current situation is that the application site is on the edge of the village, the SUE will change the character of this part of Stapleton Road. A small element of residential development is proposed to the north west of the application site. The other edges of the site will remain open spaces so that the proposed Showmen's Yard will not become enclosed by residential properties thereby minimising any conflict between different uses.

Conclusion

Based on the identified shortfall in pitch provision and the need for the site which has been confirmed by the County Councils Gypsy Liaison Officer and the requirements to provide Gypsy & Traveller Sites as identified within Policy 18 of the Core Strategy and national policy for Travellers Sites, the 'need' for the site and therefore the principle of development is considered to be acceptable. Furthermore, the criteria listed within the national guidance and Policy 18 is considered to have been met. The site is considered to be a reasonable distance from local services and infrastructure, will be compatible with the scale of the nearest service centres, will result in no adverse impacts in terms of highway safety or residential amenity, will sympathetically assimilate into the surroundings and will provide a safe and healthy environment to residents. Accordingly the proposal is considered acceptable and will be recommended for approval subject to conditions.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework it is considered that subject to compliance with the conditions attached to this permission, the propose

development would be in accordance with the development plan. Based on the confirmed, specific need for the site, and the requirement to provide Gypsy & Travellers Sites as identified within the National Planning Policy for Travellers Sites and Policy 18 of the Core Strategy, the 'need' for the site in question is considered to be justified and the requirement to provide sites, considered paramount. Therefore in principle, the development is considered acceptable. Further, the proposal will not have a detrimental impact in terms of visual or residential amenity, or highway safety and is considered to meet the criteria of Policy 18 of the Core Strategy and be acceptable in terms of all other material considerations. The proposal goes some way to meet an established need for Travelling Showmen provision within the Borough and is in line with the aims of the NPPF and the Planning Policy for Travellers Sites.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 (a and i), RES5, REC3, NE10 and T5.

Local Plan 2006-2026 Core Strategy (2009):- Policies 3, 18 and 24.

In dealing with the application, through ongoing negotiation and the receipt of amended plans the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:- Drg Ref Car/06 Rev A, Car/05 and Car/07 received by the Local Planning Authority.
- 3 The occupation of the dwelling shall be limited to members of the Showmen's Guild of Great Britain, or retired members of the Guild, or a widow or widower of such persons, and to any resident dependents.
- 4 The parking and any turning facilities shown on drawing Car/06 Rev A shall be provided before each Showmen's yard is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
- 5 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 6 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 7 No development approved by this permission shall be commenced until a scheme for the investigation of landfill gas on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any landfill gas

shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

- 8 Mobile homes to be sited at the application site shall conform to BS3662:2005 Residential Park Homes and be fitted with glazing to achieve 20dB Rtra.
- 9 The development shall be carried out in accordance with details of a 2m high earth bund to be positioned around the perimeter of the site, details of which shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details and shall be carried out prior to the site first being occupied.
- 10 No development shall commence on site until a surface water drainage scheme for the relevant phase of development, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant phase of development is completed
- 11 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
 - a) hard surfacing materials
 - b) retained trees and hedgerows
 - c) planting plans
 - d) written specifications
 - e) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - f) implementation programme
 - g) fencing details
- 12 The approved soft landscaping scheme shall be carried out and completed in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.
- 13 Before the first use of the development hereby permitted, visibility splays of 2.4 metres by 101 metres shall be provided at the junction of the access with Stapleton Lane. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.
- 14 Details of a suitable crossing facility including a pedestrian refuge/hardstanding area at the site frontage to the south of the access, shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved details shall be provided before the first occupation of the development hereby permitted.

- 15 The access shall be provided in accordance with the details shown on drawing No. Car/05; the access shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 7 metres behind the highway boundary before first use of the development and once provided shall be so maintained at all times.
- 16 The gradient of the access drive shall not exceed 1:12 for the first 10 meters behind the highway boundary.
- 17 Any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of 10 metres behind the Highway boundary and shall be hung so as to open inwards only.

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 It is only because of the justification supplied in respect of the needs of Travelling Showmen, and the guidance contained in the Planning Policy for Travellers Sites, that planning permission has been granted for this use therefore this condition is required to ensure that the site is occupied for the justified purposes.
- 4 To ensure that adequate off-street parking provision is available in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan and Policy 18 of the Core Strategy
- 5-9 To ensure safe development of the site and to protect the amenities of future occupiers of the site to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan
- 10 To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system in accordance with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 11 To enhance the appearance of the development with particular regard to its prominent frontage along Stapleton Lane to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 12 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policies BE1 (criteria a) and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 13 To ensure adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with policy T5 of the Hinckley and Bosworth Local Plan and Policy 18 of the Core Strategy.
- 14 In the interests of pedestrian safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.

- 15 To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc) to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 16 To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 17 To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway. In accordance with Policy T5 of the Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The highway boundary is at approximately the hedge fronting the premises and not the edge of the carriageway/road.
- 6 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 either the Adoptions team (or 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows:-
For 'major' accessed - see Part 6 of the "6Cs Design Guide" at www.leics.gov.uk/6csdg
For other minor, domestic accesses, contact the Service Centre Tel: 0116 305 0001
- 7 Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage matters. When Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council will become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please e-mail roadadoptions@leics.gov.uk if you wish to discuss further.

- 8 The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 9 The proposed road does not conform to an acceptable standard for adoption and therefore it will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by the private road within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3057198. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the LPA before any dwelling is occupied.

Contact Officer:- Rebecca Grant Ext 5895

Item: 02

Reference: 14/00112/COU

Applicant: Mr William Stubly

Location: Land To The Rear Of 1 Nock Verges Earl Shilton

Proposal: Change of use of land for the siting of two mobile homes for gypsy families

Target Date: 25 April 2014

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.

Background

Mr Justice Hickinbottom handed down judgement in the Planning Court on 7 April 2014 in a claim brought before the Court for the judicial review of the planning committee's grant of planning permission (13/00395/COU) for Change of use of land to a ten pitch caravan site and part demolition of buildings, at Dalebrook Farm, Leicester Road, Earl Shilton.

The application to have the decision quashed was unsuccessful and relevant parts of the judgement inform some of the reasoning in this report, in respect of this application.

Application Proposal

This is an application for the change of use of land for the siting of two mobile homes for gypsy families.

In further detail, each mobile home will have a footprint of approximately 10m x 4m and will be sited parallel to one another, adjacent to the eastern boundary of the site. Further north of the mobile homes a parking area is proposed. No elevational detail for the mobile homes has been provided. The site is to be accessed via an existing access leading from Nock Verges, north east through the land within the applicants ownership. At its junction with Nock Verges the access is narrow and enclosed on either side.

The site is to house two families whom fall within the definition of Gypsy and Traveller. These are young families with children.

Site and Surrounding Area

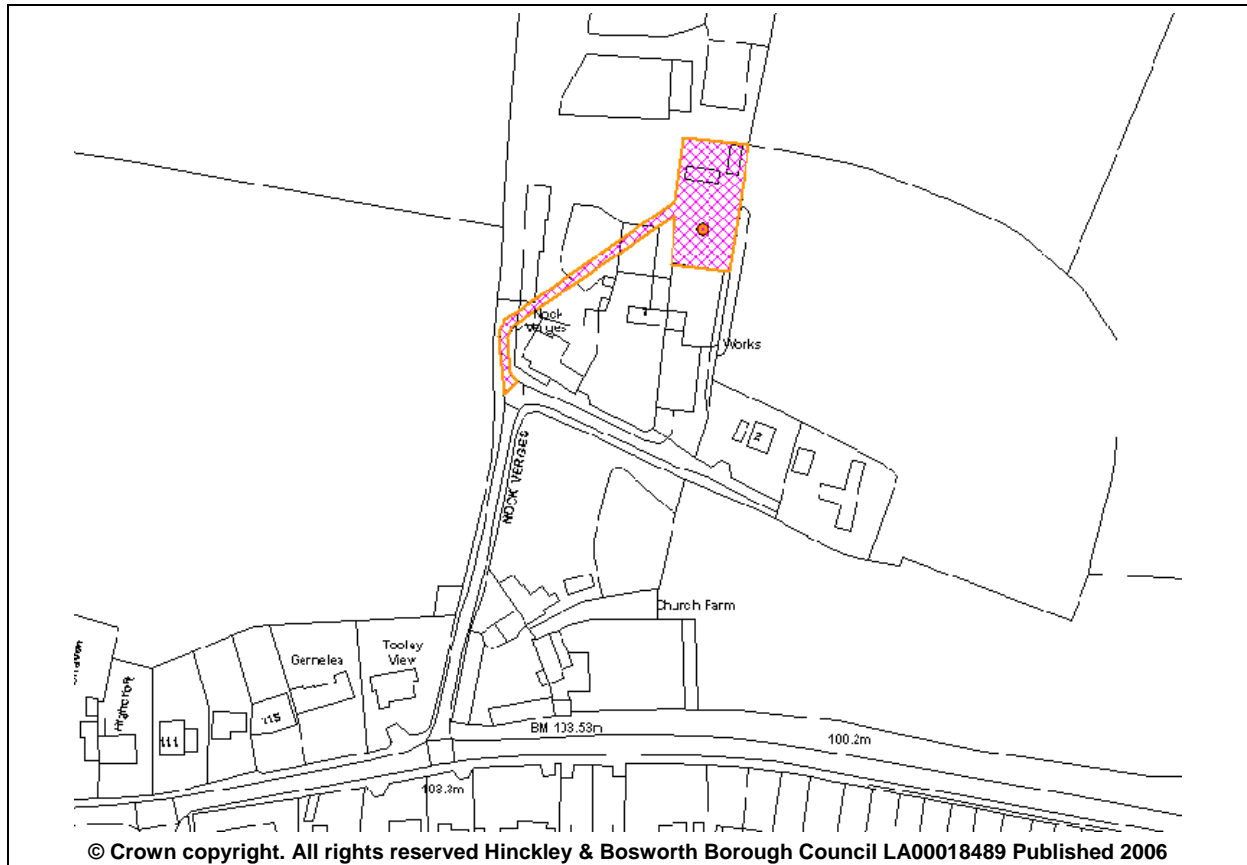
The site is within the countryside, but constitutes brownfield land due to its historic uses. The site has an area of 450 square metres, and comprises a hard surfaced parcel of land associated with the property known as 1 Nock Verges. The applicants land ownership extends further north and south of the site. The land within the applicants ownership has been historically used in association with a scrap metal business, and for the siting of static caravans to provide temporary accommodation for the workers of the Earl Shilton By-pass. There are remnants of both of these uses on site. In addition there are a number of dilapidated agricultural buildings on the northern part of the site, in which the applicants animals are housed. Further to the north, the land falls away and comprises a grassed paddock area. The applicants horses graze this parcel of land. Number 1 Nock Verges is to the south of the site. This comprises a detached two storey dwelling, enclosed by a close boarded fence. Further east are three detached dwellings; the road then culminates. The village of Earl Shilton is further south of the site and there is open countryside to the remaining boundaries. By virtue of the site's position back from the highway, it is well screened and will not be visible within the street scene.

Technical Documents submitted with the application

Design and Access Statement
Statement of Need/Personal Circumstances

Relevant Planning History:-

07/01479/COU	Temporary Siting of Ten Mobile Homes (Retrospective Application)	Approved	12.03.08
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Consultations:-

No objections received from:-

- Environment Agency
- The Director of Property Services (Gypsy Liaison)
- Head of Community Services (Pollution)
- Head of Community Services (Drainage).

No objection subject to conditions have been received from:-

- Severn Trent Water Limited
- The Director of Environment and Transport (Highways)
- Head of Business Development and Street Scene Services (Waste Minimisation).

Earl Shilton Town Council object to the application on the following grounds:-

- a) the Borough currently has a 5 year supply of Gypsy and Traveller Sites so there is no need for this site, further, there is no personal need
- b) the site is outside the settlement boundary
- c) permanent applications on the site have been previously refused on grounds that the site is within a Local Landscape Improvement Area of protected open countryside
- d) the proposal is contrary to policy NE5.

A letter of objection has been received from Freeth Cartwright on behalf of the local residents, this raises the following issues:-

- a) no quantitative need for the development
- b) not sustainable development as not within reasonable distance of services and shops
- c) not acceptable in highway safety terms - contrary to 6C's guidance
- d) outside settlement boundary - development in open countryside should be limited
- e) no need for site, based on Gypsy and Traveller Accommodation Needs Survey
- f) no information provided in respect of the existence of alternative accommodation/personal needs of applicant.
- g) contrary to policy RES13 of the Local Plan and policy 18 of the Core Strategy
- h) contrary to overarching intentions of NPPF in respect of sustainable development
- i) there was no previous objection to the siting of 10 mobile homes as this was on a temporary basis
- j) the site is a scrap yard and is adjacent to a light industrial use and has a history of contamination. This will have a detrimental impact on the proposed occupants and could not be capable of assimilation within its setting
- k) the proposal does not include appropriate landscaping
- l) site should not dominate settlement and should not place undue pressure on local infrastructure
- m) contrary to paragraph 26 of planning policy for travellers.

18 letters of neighbour representation have been received raising the following issues/concerns:-

- a) contrary to the character of the Green Belt
- b) concerns over anti-social behaviour that may arise
- c) highway visibility is poor and general highway safety concerns
- d) the proposed use is not compatible with the existing industrial units
- e) unacceptable use within the countryside
- f) is no justification/need for the site
- g) approving the application would set a precedent
- h) the area would become besieged by the travelling community
- i) a permanent bungalow has been refused on the site so surely the same criteria would apply to two mobile homes?
- j) queries raised over end users and numbers of residents
- k) is this site instead of or as well as the site at Dale Farm?
- l) why does Market Bosworth not have such proposals? Why always Earl Shilton?
- m) these sites belong away from established residents, so that people can choose whether to live near them
- n) the road should have a 30mph speed limit
- o) the proposal will lower the tone of the neighbourhood and de-value properties
- p) the site will become a scrap yard
- q) gypsy horses escape and trample nearby gardens
- r) why can't they live in the house and pay the associated bills?
- s) concerns over being disturbed by anti-social behaviour and increased crime in the area
- t) concerns for personal safety and safety of property
- u) proposal will put perspective house buyers off
- v) the site is near the flood plain
- w) there will be additional pressures on local infrastructure
- x) contrary to NPPF, Planning Policy for Traveller Sites, Core Strategy, Local Plan, emerging policies within the site allocation and development management policies pre submission DPD and the Earl Shilton and Barwell Area Action Plan pre submission draft
- y) unauthorised widening of neck verges (removal of grass verge)
- z) future pedestrian safety concerns if more grass verges are removed in the future

aa) concerns over the safety of the cow shed sited on the corner of Nock Verges if the grass verge is removed.

Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) March 2012
Planning Policy for Traveller Sites (March 2012)

Local Plan 2006-2026: Core Strategy 2009

Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development
Policy NE5: Development in the Countryside
Policy NE14: Protection of Surface Waters and Groundwater Quality
Policy NE12: Landscaping Schemes
Policy T5: Highway Design and Vehicle Parking Standards

Other Material Policy Guidance

Designing Gypsy and Traveller Sites: Good Practice Guide is primarily intended to cover social site provision and states amongst other things that there is no single, appropriate design for sites.

Appraisal:-

The proposal is for siting of two mobile homes for occupation by Gypsy and Traveller families. The County Council Traveller Sites and Liaison Officer has submitted a letter supporting the application and confirming that the proposed site will be used and occupied by persons defined as Gypsies and Travellers in accordance with the definition contained within the National Planning Policy for Traveller Sites. The Officer also verifies the applicant's details and the need for the site.

Therefore, the main issues for consideration in respect of the application are the principle of development, whether the development satisfies the criteria within the NPPF, Planning Policy for Traveller Sites and Policy 18 of the Core Strategy, and its impact on the countryside, residential amenity, highway safety and other issues.

Planning Policy for Traveller's Sites (March 2012)

'Planning Policy for Traveller's Sites' came into effect on the 27 March 2012, and must be read in conjunction with the National Planning Policy Framework (NPPF). As such, in accordance with Section 38(1) of the Planning and Compulsory Purchase Act 2004, this application should be determined against the policies in these documents. Policy H of the new traveller sites policy (in paragraph 22) states that local planning authorities should consider a number of issues amongst other relevant matters when considering planning applications for traveller sites. These issues are discussed below:-

- a) the existing level of local provision and need for site

The claimant in the judicial review case argued that the committee report on the Dalebrook Farm application should have referred to the Gypsy and Travellers Needs Study of 2013 ("the 2013 Study"), whereas the report to committee had been based on the Leicestershire Leicester and Rutland Gypsy and Travellers Accommodation Needs Assessment 2006-17 ("the 2007 Study")

Mr Justice Hickinbottom concluded that it was not arguable that the committee had erred in not taking the 2013 Study into account

His view was that:-

- a) the assessment data (ie the 2007 Study) included in CS Policy 18 were clearly still a material consideration,
- b) the data in the 2013 Study were difficult to rationalise with the 2007 Study and did not explain the reason for, arguably, showing that the need was less.
- c) The figures in the 2013 Study lacked robustness. He went on to say that:-

" At the time of the planning decision in this case, the new needs assessment (ie the 2013 Study) was a document within the Council; but it was still being considered by the Council's Executive, who had not approved it for any purpose. When they did approve it in September 2013 ----they only considered the figures robust enough to be used for the purposes of the proposed plan (ie the SADPD), and expressly not for the purposes of decision-taking in individual applications. The DPD will of course be the subject of a considerable and extensive process before adoption, which will include public consultation---the process will involve obligatory liaison with adjacent authorities to ensure that the figures across the area are correct. The Council's Executive therefore had proper cause for treating the new assessment (ie the 2013 Study) with caution and for not considering the figures to be sufficiently robust for the purposes of individual decision-making"

The 2007 Study (considered by Hickinbottom J to be clearly still a material consideration) identifies a need for 42 residential pitches for the period up until 2017 within the Borough. The assessment informed the requirement for 42 pitches included within Policy 18 of the adopted Core Strategy.

Since the Accommodation Needs Assessment (ie the 2007 Study) was adopted in April 2007, a total of five sites have received permanent planning permission within the Borough, a total of eight pitches at Winter Oaks (formerly The Paddock), Higham on the Hill, one pitch at Stoke Lane, Higham on the Hill, three permanent pitches and eight transit caravans at Hydes Lane, Hinckley and 10 pitches at Dalebrook Farm Earl Shilton . Furthermore, ten temporary pitches have been allowed on appeal for a temporary period at the Good Friday site at Barlestone. Accordingly, the approval of these pitches results in 27 permanent pitches having been provided since 2006, leaving a deficit of 15 permanent pitches.

As there is a deficit of 15 permanent pitches within the borough, there is clearly an insufficient level of local provision and a need for this site having regard to the requirement within the Core Strategy. Approval of this application would go towards meeting the current shortfall in pitches and will significantly improve the access to services such as health and education for any families residing on the site and will provide a more stable environment for their children's development.

The Council cannot currently demonstrate a five-year supply of deliverable sites and requires a further 3 plots to meet the target to 2014 and a further 3.8 plots per year until 2017 with 5 plots per year until the end of the plan period (2026). Paragraph 25 of the National Guidance indicates that, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. This should be noted and weighed in support of the application subject to the technical assessment of the site specific issues.

- b) the availability (or lack) of alternative accommodation for the applicant

The Aston Firs Caravan Site, which is owned and managed by the County Council and provides accommodation for Gypsies and Travellers, is currently full with a significant waiting list. In addition, there are a number of families living on site that have grown up children who would like to start their own families with nowhere to move to. Approval of this application would go towards meeting the current shortfall in pitches and relieving the strain on such a site.

- c) other personal circumstances of the applicant

The County Council Traveller Sites and Liaison Officer has submitted a letter in support of the application, which clarifies the personal details and specific needs of the end users of the site. This confirms that the site would be to accommodate two young families whom both have children ranging from 6 months to 14 years in age. This site would therefore provide stabilities for the families and would improve their access to health and education facilities. The personal needs of the applicant should therefore be attributed weight in the determination of this application.

- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites.

The locally specific criteria in this case is adopted Local Plan 2006-2026: Core Strategy Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople, and the application is assessed against this policy further below in this report.

- e) that Local Planning Authorities should determine applications for sites from any travellers and not just those with local connections

The applicant is a local man who has lived in the borough for a number of years. Therefore the applicant and family are considered to have local connections.

Paragraph 23 of the document states that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure. Paragraph 55 of the NPPF states that "local planning authorities should avoid isolated new homes in the countryside". Although the site is within a countryside location, due to its proximity to the settlement of Earl Shilton, it is not considered that this site could be defined as isolated. This said, the countryside location needs to be balanced against the personal needs of the applicant and other

material planning considerations. These issues will be discussed in further detail below.

Finally within paragraph 24 of the Planning Policy for Traveller Sites, the policy requires local planning authorities to attach weight to the following matters:-

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

In respect of the above points, the site by virtue of its historic use is considered to comprise brownfield land and given its previous owner was a scrap merchant, the site is also considered to be untidy. Through this development the site will be cleared of the waste, scrap metal and the existing static caravans, which are in a poor state of repair. This will result in positive enhancements to the local environment, both visually and physically. The scheme does not include a formally identified children's play space and there are no details of soft landscaping, however, once the site is cleared, there will be adequate space on site for children to play and a landscaping scheme will be required by way of condition (subject to the application being approved) to help assimilate the caravans within their rural setting. Given the site's location, set well back from the road, it does occupy a relatively isolated position (both physically and visually), and this is not worsened by the existing hard landscaping/boundary treatment on site.

Local Plan 2006-2026

Core Strategy Policy 18

Policy 18 of the Core Strategy is concerned with the provision of sites for Gypsies, Travellers and Travelling Showpeople and outlines the numerical requirement for the delivery of pitches for use by Gypsies and Travellers which were originally derived. The policy identifies that the Borough is required to provide 42 residential pitches (26 up to 2012, 16 from 2012 - 2017) and five transit pitches (to accommodate 10 transit caravans) to 2012. As discussed above, taking into consideration the pitches approved, there is currently a shortfall of 15 pitches and thus a need to provide further pitches.

Proximity to Settlement/Local Services (Sustainability)

Policy 18 states that where a proposed site is not within or adjacent to a settlement boundary, it should be located within a 'reasonable' distance of local services and facilities (including shops, schools and healthcare), although what constitutes a 'reasonable' distance is not quantified.

Although the application site is not situated within or adjacent to the settlement boundary of Earl Shilton, it is within close proximity to it. The site is roughly 89 metres from the settlement boundary and 2km from the centre of Earl Shilton. Earl Shilton comprises a sustainable settlement which provides a full range of services. Due to the presence of footpaths to the centre, safe travel could be made to these facilities by methods other than the private car. Accordingly, the site is considered to be within a 'reasonable' distance of a service providing settlement and will provide accessibility to local services and facilities as required by the policy.

Highway Safety

Criteria 4 of Policy 18 of the Core Strategy requires gypsy and traveller sites to have a safe highway access as well as provision for parking and servicing.

The access defined on the site plan comprises the existing access serving the site from Nock Verges. This is a relatively narrow gated access, enclosed by hedgerow on the western side and buildings to the east. The proposed driveway to the site will run diagonally from this, in a north eastern direction, through the land owned by the applicant. An area of approximately 170sqm is defined on the site plan for parking associated with the mobile homes and there is adequate space on site for the turning of vehicles.

Within the letters of representation received, a number of highway related concerns have been raised.

The Director of Environment and Transport (Highways) has been consulted. Initially refusal was recommended on the following grounds:-

- a) that the proposal would result in additional traffic using Nock Verges, which is of an unsuitable design and width to cater for the additional traffic.
- b) The proposal would lead to a material increase in traffic at the junction of Nock Verges and Thurlaston Lane, and resultant of the adjacent private boundaries, Nock Verges is unsuitable in width and geometry, and the turning manoeuvres would be an additional source of danger to road users
- c) The development could result in a precedent for similar proposals

However, in addition to the suggested reasons for refusal the Director of Environment and Transport (Highways) stated that favourable consideration would be given to an amended planning application that would provide details of a scheme of improvements to Nock Verges.

On this basis, further discussions were undertaken with the Director of Environment and Transport (Highways). During these, evidence was provided by the Local Planning Authority in respect of the historic uses and permissions on the site. Revised observations have since been received recommending conditional approval. 5 conditions have been suggested. These will be appraised below to test their compliance with the tests set out in Circular 11/95

Recommended condition 1: This requires a scheme of off-site highway works to be provided, to improve the width and geometry at the junction of Nock Verges with Church Street/Thurlaston Lane and carriageway widening of Nock Verges. The junction access is over 100 metres from the site access and the stretch of Nock Verges to be improved is in excess of 90 metres in length. Given that the site has an historic use as a scrap yard and for the storage of skips, (which has now ceased with the recent change in landownership), that temporary permission has been granted for the siting of 10 mobile homes, of which some remain in occupation and given that there are no accident records within the vicinity of the site, it is not considered reasonable or necessary to require this development, which proposes two gypsy and traveller pitches to provide the suggested highway improvements. Accordingly, given the onerous requirements of this condition, it will not be imposed.

Recommended condition 2: this requires satisfactory access arrangements to be provided for the site. Given the historic uses and permissions and lack of accident record, the existing access is considered acceptable and thus this condition will not be imposed.

Recommended condition 3: Details of parking and turning facilities to be provided. Given the extensive land ownership of the applicant, a large proportion of which is hard surfaced, there

is an abundance of parking and turning space on site. Accordingly, the provision of details of such facilities are not considered necessary and thus this condition will not be imposed.

Recommended condition 4: surfacing of the access drive and any turning space. As the existing access comprises an unmade drive, it is considered reasonable to impose a condition requiring it to be surfaced with a hard bound porous material for the first 5 metres back.

Recommended condition 5, this requires the provision of drainage to ensure surface water does not drain onto the public highway. As recommended condition 4 requires the access to be surfaced in a porous material and given that the access slopes away from the highway, this condition is not considered necessary and thus will not be imposed.

Sympathetic Assimilation within the Countryside

Policy 18 requires that gypsy and traveller sites are capable of sympathetic assimilation to their surroundings. This policy does not state that sites should be screened from the wider area.

The site comprises a parcel of land within a wider site which has been historically used for the siting of mobile homes and for the storage of scrap. The site itself is hard surfaced and cluttered with static caravans, vehicle parts and general waste. The boundaries comprise block walling and hedgerow. The site is not visible from the highway to the south, but can be viewed (due to its elevated position) from the countryside to the south. This said, views from this direction are obscured by the existing steel portal framed agricultural buildings, and any views of the development would be seen against the backdrop of the existing residential development on Nock Verges. Through the development of the site, the area will be cleared of the existing static caravans and scrap, with visual and physical enhancements brought to the area through this. This said, to soften the stark utilitarian appearance of the mobile homes and to define the site's boundaries, if recommended for approval, a condition requiring the submission of landscaping details will be imposed.

Accordingly as the site's surroundings generally comprise built development, it is considered that the site can be sympathetically assimilated within its setting. Furthermore through the development, positive environmental impacts can be brought to the local area.

Scale

The Policy requires the proposal to be appropriate to the scale of the nearest settlement, its services and infrastructure. In this case, the proposal is for 2 static caravans, to house two families, and when considered against a settled population of Earl Shilton, which is a large settlement, it is considered appropriate and proportionate. Therefore, on balance it is considered that the proposal is not excessive in terms of scale and meets the requirements of Policy 18 in this respect.

Safe and Healthy Environment of Residents

Policy 18 requires the proposal to comply with the design guidelines detailed in the National Guidance (Designing Gypsy & Traveller Sites, Good Practice Guide). It states that many Gypsies and Travellers express a preference for a rural location which is on the edge of or closely located to a large town or city consistent with traditional lifestyles and means of employment. This site would meet this aspiration. It goes on to say that sites should not be situated near refuse sites, industrial processes or other hazardous places, as this will have a detrimental effect on the general health and well-being of the residents and pose particular safety risks for young children. There are no known hazardous places as highlighted. The

site is relatively flat (not exposed) and not located on contaminated land nor within an area of flood risk. It is also considered that a separate vehicular and pedestrian access could be achieved through the site's connection with the surrounding landscape to the south. Furthermore, emergency vehicles could access the site.

The guide stipulates that essential services (mains water, electricity drainage and sanitation) should be available. Although the provision of the above services has not been specifically identified within the application, there is the capacity to provide these services within the site. Foul water in this case is proposed to be dealt with via a package treatment plant. This will be subject to Building Regulations approval.

Design and Layout

The guide goes on to say that sites of various sizes, layouts and pitch numbers operate successfully and work best when they take account of the size of the site and the needs and demographics of the families resident on them with the safety and protection of children in mind. Although the site does not currently have clear demarcation of its boundaries, this can be achieved through the imposition of the landscaping condition, which will require details of boundary treatment. The permanent pitches proposed on this site are for related family members and the guide makes reference to this as a positive approach and can be advantageous in making good use of small plots of land.

When assessing the proposal against the guide criteria, with reference to size and layout of sites, it suggests that consultation with the gypsy and traveller community should be undertaken. In this case this is a private site. The design of the site affords amenity space and some degree of privacy for the individual pitches whilst providing natural surveillance. The guidance suggests that smaller permanent pitches should have sufficient space for one large trailer, an amenity building, drying space and parking for at least one vehicle and goes on to say that amenity buildings for each pitch are essential. In this case there is adequate space on site to meet this criteria, although the end users of the site in this case have no desire for a day room as sanitation facilities will be provided within the mobile home. As this is private site, this arrangement is considered acceptable. The 6 metre separation between each caravan is met on the current plan, as advised within the policy. The proposal will require a separate site licence issued by Head of Community Services (Pollution) which will secure satisfactory internal arrangements.

Overall, based on the above, the site is considered to be compliant with policy 18 in respect of providing a safe and healthy environment for the future occupants of the site.

Neighbours Amenities

Policy 18 suggests that sites should not cause an unacceptable nuisance to existing neighbours by virtue of noise or other disturbance caused by vehicle movements. Given that the application proposes two mobile homes, to house two families, given the existing uses of the site (the siting of 9 static use as a scrap yard), the numbers of vehicle trips associated with the proposed use will be lower, and thus will result in a lesser amount of noise and disturbance in this respect, to the residents of surrounding dwellings. Notwithstanding the above, resultant of the position of the access drive and the proposed parking area, the vehicle movements will be a considerable distance from the surrounding residential properties and are thus not considered to result in any unacceptable impacts upon the residential amenity of surrounding dwellings in their own right.

Accordingly, taking into consideration the separation distances, the scale of the proposal and the historic uses of the site, there are not considered to be any materially detrimental impacts on the residential amenity of the surrounding dwellings.

Impact on Countryside

Saved Local Plan Policy NE5 seeks to protect the countryside for its own sake, with the first part of the policy identifying acceptable uses, in principle, within the countryside. However, since the release of the NPPF and its presumption in favour of sustainable development, this policy is considered out of date and to conflict with the requirements of this more recent guidance. Therefore, the application of the first section of policy NE5 should be attributed very limited, if any weight in the determination of applications. The second part of this policy identified design related criteria for new developments within the countryside. However, in respect of Gypsy and Traveller sites, policy 18 of the Core Strategy, which requires developments to be capable of sympathetic assimilation within their setting, supersedes the requirements of this policy in this case. This has been discussed above, and on balance this proposal is considered capable of sympathetic assimilation within its setting and will therefore have no materially adverse impacts on the character of the countryside.

Other Considerations

Issues raised within the neighbour letters of representation not addressed elsewhere in the report, will be considered below:-

It has been stated that permanent applications on the site have been previously refused on grounds that the site is within a Local Landscape Improvement Area of protected open countryside. This application has been determined on its specific merits and in accordance with the applicable planning policy and a recommendation has been made based on these.

It has been suggested that there is no need for this site, based on the Gypsy and Traveller Accommodation Needs Survey. The report on the judicial review summarises the assessment of the robustness of the 2013 Study's figures. The figures in the 2013 Study have not been authorised by the Council for use in the determination of individual planning applications and the judge held that the Council had proper cause for treating the 2013 Study assessment with caution and for not considering the figures to be sufficiently robust for the purposes of individual decision-taking. The assessment in respect of pitch provision included within adopted Core Strategy Policy 18 and informed by the 2007 Study are, in the judge's words, "clearly still a material consideration"

Contrary to policy RES13 of the Local Plan. This policy has been superseded by Policy 18 of the Core Strategy.

There was no previous objection to the siting of 10 mobile homes as this was on a temporary basis. This application can not be used for comparison purposes, for although its location was the same, its specific detail differed considerably.

The site is a scrap yard and is adjacent to a light industrial use and has a history of contamination. The previous land owner used the site as a scrap yard, however the land ownership has now changed and the current owner (applicant) is in the process of clearing the site. The use immediately adjacent to the site is residential and therefore there is considered to be no conflict and no objections have been received from Head of Community Services (Pollution) in respect of land contamination.

It has been suggested that the site is contrary to the character of the Green Belt. To clarify, there is no Green Belt land within the borough.

Concerns over anti-social behaviour that may arise. There is no evidence on which to base this claim and it does not therefore constitute a material planning consideration.

Concerns have been raised that approving the application would set a precedent. Each planning application is determined on its specific merits and thus the determination of this application would not set a precedent.

It has been suggested that because a permanent bungalow has been refused on the site, the same criteria should apply to two mobile homes. Applications for gypsy and traveller site have their own specific planning policies and are determined in relation to each specific criteria.

Queries raised over end users and numbers of residents. Two families would reside on the site; specific detail is a private matter of which there is no requirement to disclose.

A query has been raised about whether this site is instead of, or as well as, the site at Dalebrook Farm? This site is in addition to the site at Dalebrook Farm.

A question was raised about why Market Bosworth not have such proposals and why these applications tend to be submitted in Earl Shilton? The Council has no control over the location of private sites such as these. They are subject to where there is landownership. Once a planning application is submitted, the local planning authority has to determine it on its merits.

A resident has stated that these types of uses should be located away from established residents, so that people can choose whether to live near them. This is not a material planning consideration and will have no bearing on the outcome of this application.

It has been suggested that the proposal will lower the tone of the neighbourhood and de-value properties. Property de-valuation is not a material planning consideration.

Concern has been raised that the site will become a scrap yard. The site is already a scrap yard, and through this application, the site will be substantially cleared, bringing associated environmental benefits to the local area.

Suggestion that Gypsy horses may escape and trample nearby gardens. This is a private matter and is not a material planning consideration.

A query has been raised about why Gypsies can't they live in the house and pay the associated bills? Gypsy and travellers have specific cultural traditions which have been recognised within national planning policy. Such groups traditionally reside in transient accommodation.

Concerns over being disturbed by anti-social behaviour and increased crime in the area. There is no evidence upon which to base this claim. It is not a material planning consideration and will have no bearing on the outcome of this application.

Concerns for personal safety and safety of property. There is no evidence upon which to base this claim. It is not a material planning consideration and will have no bearing on the outcome of this application.

Concern that the use will put perspective house buyers off. There is no evidence upon which to base this claim. It is not a material planning consideration and will have no bearing on the outcome of this application.

The site is near the flood plain. The site is not within the flood plain and thus there are no flooding issues raised.

Query that there will be additional pressures on local infrastructure. Two additional families would not result in a material impact on the local infrastructure.

In respect of the unauthorised removal of the grass verge, this is a private matter which is being investigated by the landowner (in this case LCC Highways).

Any scheme of improvements to the highway will be subject of approval from the Director of Environment and Transport (Highways), to ensure there are no consequential adverse impacts in terms of highway or pedestrian safety or to the security of nearby buildings.

Conclusion

Based on the identified shortfall in pitch provision and need for the site, which has been confirmed by the County Councils Gypsy Liaison Officer and the requirement to provide Gypsy & Traveller Sites as identified within Policy 18 of the Core Strategy and national planning policy for Traveller sites, the 'need' for the site and therefore the principle of development is considered to be acceptable. Further, the criteria listed within the national guidance and Policy 18 is considered to have been met. The site is considered to be a reasonable distance from local services and infrastructure, will be compatible with the scale of the nearest service centres, will result in no adverse impacts in terms of highway safety or residential amenity, will sympathetically assimilate into the surroundings, and will provide a safe and healthy environment to residents. Accordingly the proposal is considered acceptable and will be recommended for approval subject to conditions.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. Based on the confirmed, specific need for the site, and the requirement to provide Gypsy & Traveller Sites as identified within National Planning Policy for Traveller Sites and Policy 18 of the Core Strategy, the 'need' for the site in question is considered to be justified and the requirement to provide sites, considered paramount. Therefore in principal, the development is considered acceptable. Further, the proposal will not have a detrimental impact in terms of visual or residential amenity, flooding or flood risk, on the character of the countryside or highway safety and is considered to meet the criteria of Policy 18 of the Core Strategy and be acceptable in terms of all other material considerations. The proposal goes some way to meet an established need for transit and permanent provision within the Borough and is in line with the aims of NPPF and the Planning Policy for Traveller Sites.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 (criteria a and i) , NE5, T5, NE12. NE14 and BE1 (a,i).

Local Plan 2006-2026: Core Strategy (2009):- Policy 18.

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

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

- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Refs:- 'Location Plan', 'Block received by the Local Planning Authority on the 28 February 2014.
- 3 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary to the 'Planning policy for traveller's sites'.
- 4 Prior to commencement a scheme illustrating off site highway works within Nock Verges and at its junction with Church Street/Thurlaston Lane shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to first occupation of the mobile homes hereby approved and retained thereafter.
- 5 Prior to commencement details of boundary treatment for the site, including an implementation strategy shall be submitted to and approved in writing by the Local Planning. The scheme shall be implemented in accordance with the approved details and shall be retained thereafter.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 It is only because of the justification supplied in respect of the needs of gypsies and travellers, and the guidance contained in the Planning Policy for Traveller Sites, that planning permission has been granted for this use therefore this condition is required to ensure that the site is occupied for the justified purposes.
- 4 In the interests of highway safety in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 5 In the interests of visual amenity and to preserve the character of the countryside, in accordance with Policy BE1 (a) of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Eleanor Overton Ext 5680

Item: 03

Reference: 14/00349/OUT

Applicant: Mr J Smith

Location: The Poplars Watling Street Hinckley

Proposal: Erection of one dwelling and four mobile homes (outline - access and layout only)

Target Date: 30 May 2014

Introduction:-

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

Application Proposal

This application seeks outline planning permission for the erection of 5 no. residential units.

Access and layout are the only matters for determination at this stage, with all other matters being reserved for approval at a later stage.

The existing access to the south of the site, off Watling Street is to serve the development. The scheme proposes one detached residential unit adjacent to 'The Poplars', fronting Watling Street and 4 x mobile homes situated parallel to one another adjacent to the north western boundary of the site. Each mobile home will have a footprint measuring 4.5 meters x 11 meters and will be sited a distance of approximately 6 meters apart. Parking for 4 vehicles and a turning area is illustrated between the rear gardens of the host and proposed dwelling, and the first mobile home. A further two parking spaces and turning area is proposed to the front of the proposed dwelling.

Whilst not formally seeking consent for scale, the application has been accompanied by an illustrative streetscene, showing a two storey detached dwelling to the sites frontage.

The Site and Surrounding Area

The site has an area of approximately half an acre and comprises the residential curtilage of the dwelling known as The Poplars. This dwelling comprises an extended semi-detached property.

To the north of the site are open fields and to the east is a parcel of grassland. Further east of this is a commercial development. To the west of the site are a further 6 residential properties and a petrol station. The site is bound by mature landscaping to all but the common boundary between the application property and its neighbour Rivendell; this comprises fencing.

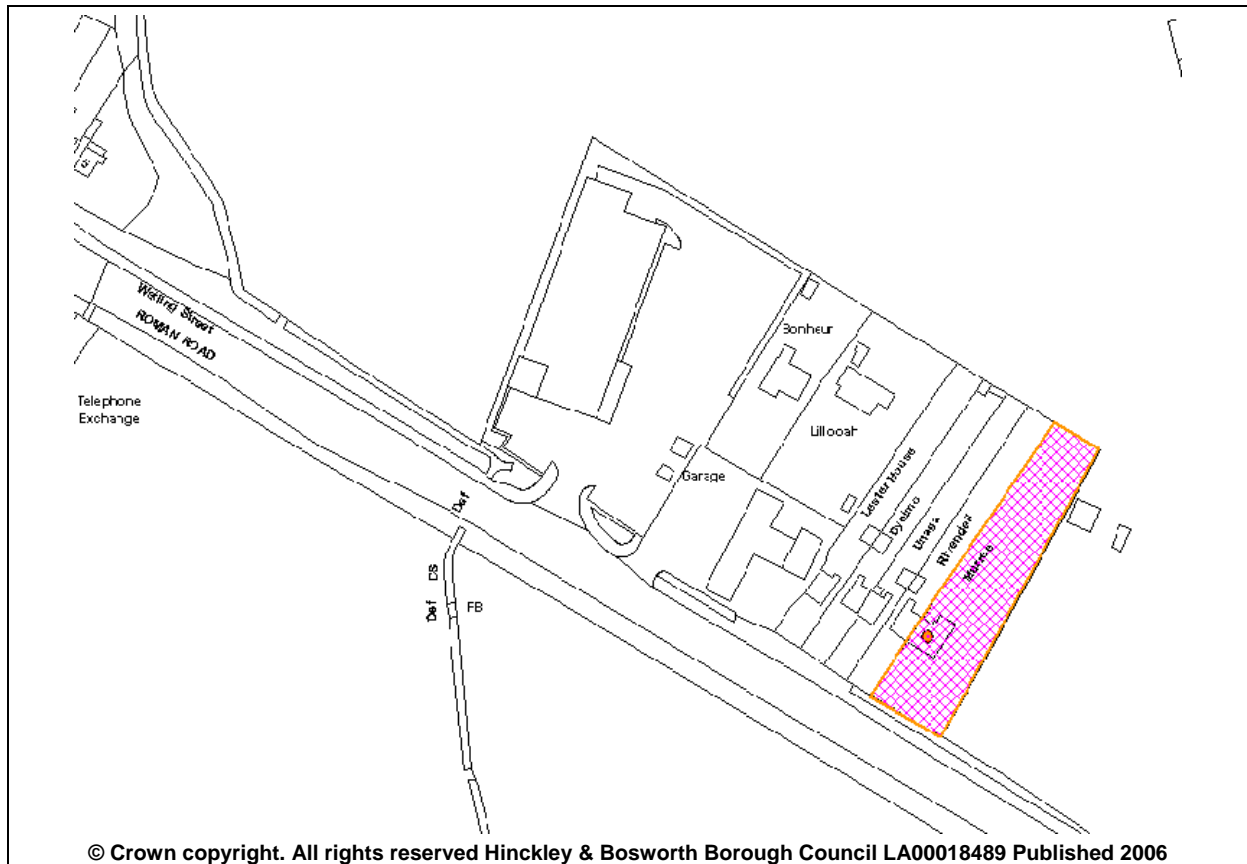
The site is located on the northern side of Watling Street; with the town centre of Hinckley to the East. The site falls within the settlement boundary and comprises a mixed residential/commercial area.

Technical Documents have been submitted with application

None relevant.

Relevant Planning History:-

13/00556/OUT	Erection of three dwellings (outline - access and layout only)	Approved	12.09.13
11/00693/FUL	Change of use of land for the provision of four mobile homes	Refused	17.11.11
10/00710/OUT	Erection of one Dwelling (outline - Access Only)	Approved	11. 11.10



Consultations:-

No objection has been received from:-

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

No objection subject to conditions have been received from:-

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

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

- a) adverse impacts on the A5 and impacts not fully understood resultant of the current highway works
- b) adverse impacts in terms of noise and disturbance
- c) already a gypsy site within close proximity of the site
- d) adverse impact on privacy of surrounding properties
- e) safety and security issues
- f) scheme will result in overdevelopment
- g) adverse impacts on cyclists using the A5
- h) loss of view
- i) private rear gardens negatively affected
- j) increased vehicle trips onto a very busy section of road
- k) de-valuation of surrounding dwellings
- l) this is a residential area, the development of a mobile home park will negatively affect the nature of the area
- m) will result in health issues to surrounding residents
- n) will result in rubbish and potential trespassing
- o) where has the public footpath gone that runs adjacent to the site?

Policy:-

National Policy Guidance

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

Local Plan 2006-2026: Core Strategy 2009

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

Hinckley and Bosworth Local Plan 2001

Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities
Policy RES5: Residential Proposals on Unallocated Sites
Policy BE1: Design and Siting of Development
Policy REC3: New Residential Development - Outdoor Play Space for Children
Policy T5: Highway Design and Vehicle Parking Standards

Supplementary Planning Guidance/Documents

Play and Open Space (SPD)
Sustainable Design (SPD)
New Residential Development (SPG)

Other Material Policy Guidance

None relevant.

Appraisal:-

This is an outline application for access and layout only; therefore appearance, landscaping and scale do not form part of the application and will be considered at the reserved matters stage. As such the main considerations with regards to this application are the principle of development, layout, access, highway issues and other matters.

Principle

The site is located within the settlement boundary of Hinckley, as defined on the adopted Hinckley and Bosworth Local Plan proposals map and therefore there is a presumption in favour of development subject to all other material considerations being appropriately addressed.

In March 2012 the National Planning Policy Framework (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. Paragraph 12 states that the NPPF 'does not change the statutory status of the development plan as a starting point for decision-making. Proposed development that accords with an up-to-date Local Plan should be approved... unless material considerations indicate otherwise'.

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

Notwithstanding the above, the principle of residential development on the site has already been established through the grant of planning permission refs: 13/00556/OUT and 10/00710/OUT.

Accordingly, the principle of development is considered acceptable.

Layout

Character

The application site comprises garden land and thus Paragraph 53 of the NPPF is applicable. This seeks to resist inappropriate development of garden land where development would cause harm to the local area or would result in overdevelopment. This is further reinforced through the requirements of saved Local Plan Policy BE1.

Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to capitalise on opportunities to improve the character and quality of an area and the way it functions.

The immediate area is characterised by two storey semi detached and detached dwellings set back approximately 20 metres from the road frontage, and two examples of 2 no. single storey bungalows sited in back land plots - 'Bonheur' and 'Lillooah' located to the east of 'Aldi'.

Accordingly the principle of back land development has already been established in this vicinity.

Notwithstanding the above, the application property and those adjacent comprise a uniform row of dwellings accommodating large, relatively narrow plots, and their extensive rear gardens comprise prominent characteristics of the area.

Although planning permission has been granted (13/00556/OUT) for two dwellings within the rear garden of application property, the siting of these were adjacent to the rear boundary of the plot. Accordingly a significant area of open space would be retained to the rear of the host dwelling, and consequently the character was not considered to be compromised to a detrimental level in that case.

In this case, the layout of the mobile homes are to be sited in a regimented pattern, parallel to one-another for the length of the plot. Although there will be a gap between the rear garden of the application property and the first mobile home, this is proposed as a hard surfaced parking and turning area. By virtue of the comprehensive nature and regimented layout of the development proposed, the characteristics of the plot will be eroded and the layout will result in an incongruous form of development that will not be in keeping with that of the surrounding residential plots.

Whilst scale is not for consideration at this stage, the application is accompanied by illustrative streetscene showing a 2 storey dwelling occupying plot 1; and the mobile homes will be single storey. It is considered that 2 storey proportions would be acceptable to the site frontage and single storey to the rear, both being reflective of existing proportions in the vicinity.

Residential Amenity

As scale is not for consideration at this stage, consequential impacts on adjacent occupiers in terms of privacy, loss of light and overbearing form, can not been comprehensively considered.

Notwithstanding this, layout is for consideration at this stage.

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.

The Council's SPG on New Residential Development states that rear gardens should normally be a minimum of 12.5 metres in depth, and for 2 bed properties should have a minimum area of 60sqm and 3/4 bed properties should have a minimum area of 80sqm. Plot 1 proposes a rear garden length of 12 metres and has an area of 84 sqm, which on balance is considered acceptable. The provision for plots 2 - 5 fall considerably short of the applicable guidelines. In addition, dwellings with up to three bedrooms are required to provide 2 off road parking spaces. Although the specific number of bedrooms are unknown at this stage, only 1 parking space is proposed for each mobile home and there is no provision on site for visitor parking. This said, given the dwelling type proposed, (mobile homes) which generally attract older residents, who are more likely to have a lesser number of cars and want smaller gardens, a flexible approach should be taken. However, when considering the considerable cumulative shortfalls, the development is considered to comprise over-development of the plot and would not be in keeping with the characteristics of the area.

The Council's SPD on New Residential Development requires a minimum distance of 25 metres between habitable room windows, in the interests of privacy and 12 metres between principle room windows and a blank elevation, to ensure a development is not oppressive. These distances are achieved between plots 1 and 2.

As fenestration details have not been provided for the mobile homes, it is not possible to reach a definitive conclusion in respect of privacy issues; however, it is highly likely that principle room windows would face one another and given the separation distance between the dwellings of only 6 metres, this would not be acceptable. Even if there were no habitable room windows along one of the principle elevations (front/rear), there would be overlooking of a blank wall, and in this case too, the separation distance proposed would fall considerably short. Accordingly, the significant shortfall in these distances would result in an unacceptable impact in terms of residential amenity.

As the mobile homes and parking spaces are to be sited adjacent to the common boundary (3m and 1.5m from it respectively) and will continue for the length of the plot, the development is considered to result in an unacceptable impact on the residential amenity of the adjacent property and its rear amenity space, by virtue of noise and disturbance, associated with both the vehicle movements and future occupants, and will be overbearing. It is not considered that these impacts could be overcome by way of condition.

In summary, the proposed development, by virtue of its regimented layout and the number of units proposed, is not considered in keeping with the general character or layout of the adjacent dwellings and is considered to comprise over-development of the plot.

Further, by virtue of the proposed layout and density of development, its proximity to surrounding residential properties and associated vehicle movements, the proposal would have an adverse impact on the residential amenity of surrounding properties by way of noise, disturbance and privacy.

Based on the above, the development is contrary to paragraphs 53 and 64 of the NPPF, policy BE1 (a, i) of the adopted Hinckley and Bosworth Local Plan the principles outlined in the Council's SPG on New Residential Development.

Highway Considerations

Saved Policies T5 and BE1 (criterion g) are considered to have limited conflict with the intentions of the NPPF and are therefore attributed weight in the determination of this application.

Access will be taken from Watling Street to the south of the site.

The Director of Environment and Transport (Highways) has no objection to the scheme. The Highways Agency has confirmed that the proposed development is not expected to have a material impact on the closest strategic route, the A5 and therefore raises no objection.

As the number of bedrooms for the units remain unknown at this stage, it is not possible to ascertain whether the number of parking spaces are adequate. However, as mentioned above, only one space is proposed per mobile home and there is no provision on site for visitor parking. Further, given that the site is on a busy section of the A5, there is no on street parking within close proximity of the site. By virtue of the site layout, it is not considered that any additional parking spaces could be provided without resulting in a further loss of amenity space, which would not be acceptable. Accordingly, there is considered to be inadequate provision of off street parking to serve the development.

Based on the above, the development is contrary to the intentions of T5 and BE1 (criterion g) of the adopted Hinckley and Bosworth Local Plan.

Drainage and Flood Risk

Saved Policy NE14 is generally consistent with the NPPF and therefore remains relevant to the determination of this application. The scheme has been considered by the Head of Community Services (Land Drainage).

Head of Community Services (Land Drainage) has recommended that surface water should be managed by sustainable methods and that the access way, parking and turning areas should be constructed in permeable material. Accordingly a condition has been recommended to secure drainage details incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. If recommended for approval, this condition will be imposed.

Play and Open Space Contributions

The net gain in a dwelling requires a financial contribution towards play and open space as set out in Policy REC3 of the Local Plan. In this instance, there is no existing open space within 400 metres of the site and as such a contribution cannot be requested under the terms of this policy.

Sustainability

Policy 24 of the Core Strategy is concerned with Sustainable Design and Technology. It states that all residential developments within Hinckley will be required to comply with Code Level 4 of the Code for Sustainable Homes from 2013 - 2016. Given their construction, it will not be possible for the mobile homes to be constructed to Code 4. Accordingly, if recommended for approval a condition solely requiring the dwelling to be constructed to Code 4 will be imposed.

Recycling

The Head of Business Development and Street Scene Services (Waste Minimisation) recommends a condition to secure a scheme for the provision for waste and recycling storage across the site at the adopted highway boundary. As the scheme is for five dwellings which are accessed via a private drive, this condition is considered necessary and will be imposed if the application is recommended for approval.

Letters of Representation

Objections raised which have not been addressed within the main body of the report:-

It has been stated that there is already a gypsy site within close proximity of the site. To clarify, this application is not seeking approval for a Gypsy and Traveller site.

Safety and security issues have been raised. There is no evidence to suggest that this application will result in such issues and consequently this does not constitute a material planning consideration.

Adverse impacts on cyclists using the A5. There is no evidence to substantiate this concern.

Loss of view. This does not constitute a material planning consideration.

De-valuation of surrounding dwellings. This does not constitute a material planning consideration.

Will result in health issues to surrounding residents. There is no evidence to substantiate this concern.

Will result in rubbish and potential trespassing. There is no evidence to substantiate this concern.

Where has the public footpath gone that runs adjacent to the site? This matter is currently under investigation and clarification will be provided as a late item. Notwithstanding this, this does not constitute a material planning consideration in the determination of this application.

Conclusion

In summary, the proposed development, by virtue of its regimented layout and the number of units proposed, is not considered in keeping with the general character or layout of the adjacent dwellings and will both result in an incongruous form of development and over-development of the plot.

Further, by virtue of the proposed layout and density, the developments proximity to surrounding residential properties and associated vehicle movements, the proposal will have an adverse impact on the residential amenity of surrounding properties by way of noise, disturbance and privacy.

The proposed site layout does not illustrate adequate off road parking provision to serve the development and given that the site fronts a busy section of the A5, there is no available on street parking within the vicinity.

Based on the above, the development is therefore contrary to paragraphs 53 and 64 of the NPPF, policies BE1 (a, g, i) and T5 of the adopted Hinckley and Bosworth Local Plan and the principles outlined in the Council's SPG on New Residential Development.

RECOMMENDATION:- REFUSE, for the following reasons:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Reasons:-

- 1 In the opinion of the Local Planning Authority, the proposed development would be over-intensive and would comprise a poor quality design/layout. If approved, the development would result in a scheme that functions poorly and is out of keeping with the established character of the area, contrary to policies BE1 (a) and T5 of the adopted Hinckley and Bosworth Local Plan .and paragraphs 53 and 64 of the NPPF.
- 2 In the opinion of the Local Planning Authority, the proposed development would result in a poor quality living environment for future residents by virtue of the layout and proximity of units to each other and site boundaries. Furthermore, the scale / intensity of the development in direct proximity to the garden of the adjacent property would adversely affect the amenity of occupiers of that dwelling, by way of noise, disturbance and privacy for residents. Approval of the proposal would be contrary to policies BE1 (g, i) and paragraph 64 of the NPPF.

Contact Officer:- Eleanor Overton Ext 5680

Item: 04

Reference: 14/00381/FUL

Applicant: Miss Rebecca Meek

Location: Land East Of Bagworth Road Newbold Heath

Proposal: Installation of 1 No. wind turbine (up to 110 metres in tip height) and associated infrastructure

Target Date: 14 July 2014

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 application seeks full planning permission for the erection of a single wind turbine with a maximum height to blade tip of 110 metres. The maximum generating capacity of the turbine would likely to be 1.5 MW.

An area of hardstanding is proposed around the turbine to provide a stable base for the turbine components to be erected during construction. Associated infrastructure includes a new access track, crane hardstanding area, electrical kiosks, underground cabling and temporary construction compound.

The turbine would be connected by underground cables to the transformer kiosk and then to the grid connection point, where it would be connected to the local distribution network.

Planning permission is sought for a 25 year period.

Access to the site by HGVs during construction and for routine maintenance during operation is proposed from Bagworth Road via the existing farm field entrance which would be upgraded accordingly. An access track would run from the site entrance to the turbine itself.

The Site and Surrounding Area

The site of the proposed turbine is located within the countryside approximately 200 metres to the east of Bagworth Road. The site itself consists of an agricultural field. The land is bounded by scattered trees and hedgerows. To the south west of the site are a number of agricultural buildings. The turbine is proposed to be sited to the north of the field approximately 80 metres from the field boundary.

The site itself is flat and level; however land levels and topography varies within the wider vicinity of the site. The nearest settlements at Newbold Verdon, Barlestone and Bagworth are all located approximately 2km to the south, south west and north of the site respectively. A group of trees known as Little Fox Covert is located to the east of the site.

Three public rights of way cross the site, including foot path references S14, S15 and R60.

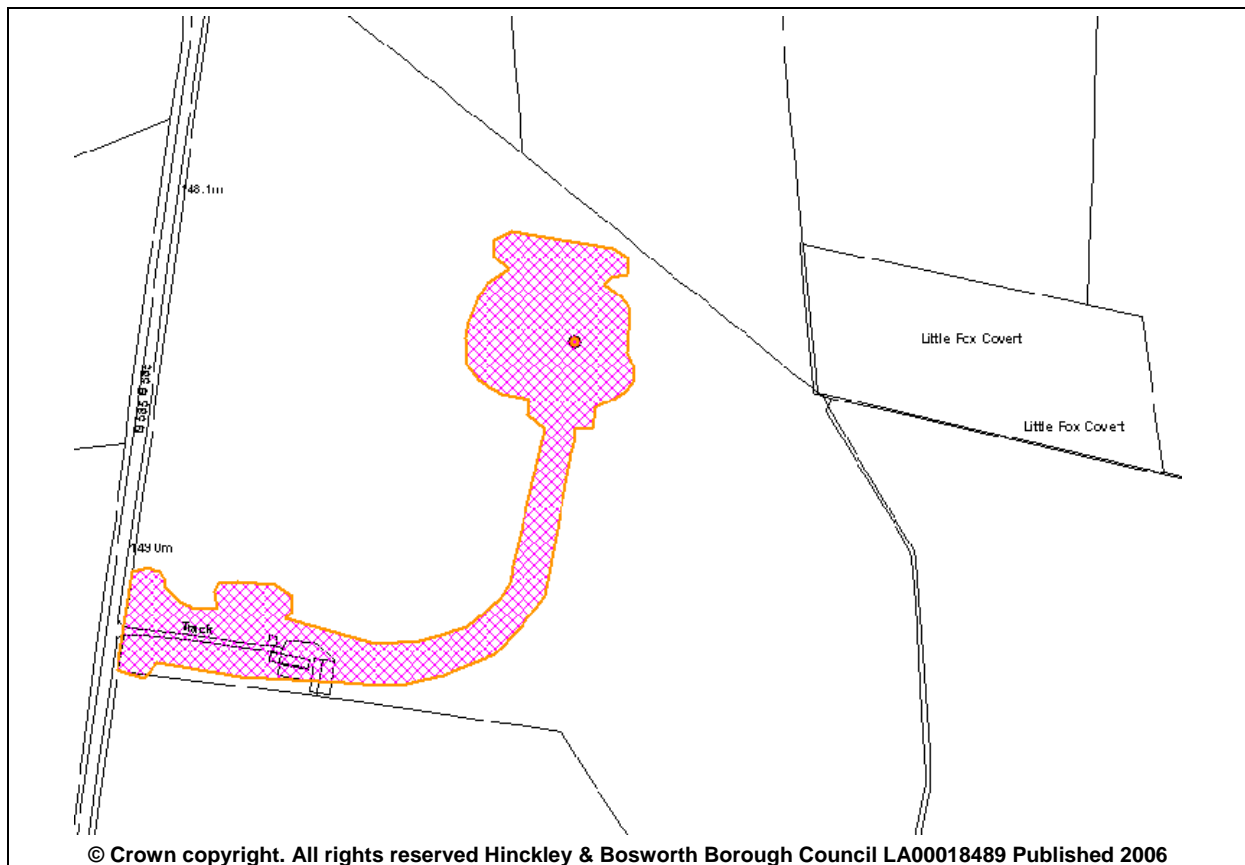
The closest residential properties are Fox Covert Farm approximately 567 metres to the north, Heath Lodge Farm approximately 721 metres to the south east and Oak Farm Park approximately 722 metres to the north.

Technical Documents submitted with application

Design & Access Statement
Environmental Report
Figures and Visualisations
Appendices
Statement of Community Engagement

Relevant Planning History:-

13/00636/SCOPE Screening Opinion under Reg 5 of EIA Regulations 2011. EIA not required 1 August 2013.



Consultations:-

No objections have been received from:-

Ministry of Defence Safeguarding
NATS Safeguarding
East Midlands Airport
Head of Community Services (Land Drainage)
LCC Directorate of Chief Executive (Ecology)

Joint Radio Company (on behalf of Western Power Distribution and National Grid Gas Networks)
Barlestone Parish Council
Conservation Officer
RSPB
Director of Environment and Transport (Highways)
Director of Environment and Transport (Public Rights of Way)
Head of Community Services (Pollution)
Natural England.

Bagworth and Thornton Parish Council object for the following reasons:-

- a) the community has raised concerns due to the possibility of subsidence being triggered from the turbine weight
- b) driving hazard, close to Bagworth Road would distract drivers
- c) visual impact upon Bagworth and National Forest
- d) the nearest grid connection would not handle 1.5 MW and would require verges and paths to be dug up
- e) electricity will be fed into National Grid therefore no benefit for local villagers.

Newbold Verdon Parish Council raised concerns in respect of the visual impact of the proposal on the surrounding area, but did not object or support the proposal.

Five site notices were displayed and neighbours notified.

28 letters of objection has been received. Summary of comments:-

- a) the turbine will be an eyesore
- b) wind turbines are not an efficient green energy source
- c) cannot be turned off in high winds
- d) huge carbon footprint
- e) subsidence from previous mine workings is a risk
- f) noise and shadow flicker to nearby dwellings
- g) distraction to drivers on Bagworth Road
- h) wind speeds are too low for it to be effective
- i) the nearest substation is in Barlestone that will require verges and roads to be dug up.

Policy:-

National Policy Guidance

The National Planning Policy Framework March 2012 (NPPF)
National Planning Practice Guidance 2014 (NPPG)

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 BE5: The Setting of a Listed Building
Policy BE27: Wind Power
Policy T5: Highway Safety

Other Relevant Policy Guidance

Hinckley & Bosworth Landscape Character Assessment (2006)
Hinckley & Bosworth Renewable Energy Capacity Study (2013)
The Assessment and Rating of Noise from Wind Farms (ETSU-R-1997)
National Policy Statement for Renewable Energy Infrastructure (EN-3) 2011

Appraisal:-

The main considerations in respect of this application are the principle of development, the visual impact of the proposal upon the character and landscape of the area, impact upon residential amenity, highway safety and other material considerations.

Principle of Development

One of the core planning principles of the National Planning Policy Framework (NPPF) as set out in Paragraph 17 is to support the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy. This is set out further in Paragraph 93 of the NPPF which states that planning has a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure which is central to the economic, social and environmental dimensions of sustainable development.

Furthermore Paragraph 98 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 also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- Approve the application if its impacts are (or can be made) acceptable.

Spatial Objective 12 of the Core Strategy 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.

Policy BE27 of the Local Plan 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 upon 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 publicly 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.

It is considered with the exception of criterion (a) that Policy BE27 has limited conflict with the NPPF and the NPPG and therefore should be afforded weight in the determination of this application. Paragraph 98 of the NPPF states that when determining planning applications, local planning authorities should not require applicants to demonstrate the overall need for renewable and low carbon energy proposals.

The proposed wind turbine is therefore considered to be acceptable in principle in relation to the NPPF, the Planning Practice Guidance for Renewable and Low Carbon Energy and Local Plan Policy BE27.

Landscape and Visual Impact

Policy BE1 (criterion a) of the Local Plan requires development to complement or enhance the character of the surrounding area with regard to scale, layout, mass and design. In addition, Policy BE27 requires wind turbines to be 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.

Paragraphs 17 and 109 of the NPPF recognise the importance of the intrinsic character and beauty of the countryside and state that the planning system should contribute to enhancing the natural and local environment by protecting and enhancing valued landscapes.

The submission is based upon a candidate turbine with a maximum tip height envelope as the developer is yet to procure the exact manufacturer, make and model of turbine. This approach is supported within the National Policy Statement for Renewable Energy Infrastructure (EN-3). Paragraph 2.7.10 of EN-3 states that '...at the time of the application, wind farm operators may not know precisely which turbine will be procured for the site until some time after any consent has been granted. If turbine details or any other relevant information are not available... then the applicant should assess the effects that the project could have to ensure that the project as it may be constructed has been properly assessed. In this way, some flexibility should be provided in the consent.'

Therefore whilst specific details of the exact finish have been conditioned to be agreed prior to the commencement of development it is likely that the turbine will be finished in an off-white colour and will have a maximum height of 110 metres to blade tip, with a likely generating capacity of 1.5 MW.

The site is defined in the Hinckley and Bosworth Landscape Character Assessment as part of the Forest Hills Character Area. The key characteristics of this area are gently undulating landforms with small plateaus on higher ground. It is defined as a predominantly rural landscape with arable and rough set-aside, influenced by industrial/urban features such as masts, poles and pylons. The area is strongly influenced by its industrial past, and as a changing landscape, it is of lesser sensitivity and therefore more resilient to change. The Landscape Character Assessment is an evidence-based document and therefore whilst not forming part of the Development Plan, it provides a contextual background in respect of the landscape character of the area.

The site does not fall within any national or local protected landscape designations, such as Areas of Outstanding Natural Beauty.

In addition, figure 5.3 within the Hinckley and Bosworth Renewable Energy Capacity Study 2013 categorises the Forest Hills Character Area of having low-moderate sensitivity to large turbines (80 - 135 metres to the tip). The Renewable Energy Capacity Study describes the location of the site as an area unconstrained for large scale wind energy development. Accordingly this area is characterised as an area of lesser sensitivity, with resilience to change and identified as having low-medium sensitivity for large sized turbines.

In respect of the topography of the area this varies significantly. The land surrounding the turbine sits on a high plateau and to the north, east, south and west the land level falls away. The turbine would therefore be located in a relatively elevated position when viewed from certain viewpoints within the immediate and wider landscape (less than 5km). The applicant

has submitted various photomontages from a number of viewpoints to help aid the likely landscape and visual effects of the proposal.

Chapter 7 of the submitted Environmental Report details a visual amenity assessment that has been undertaken by the applicant. As the Landscape Visual Impact Assessment (LVIA) states wind turbines tend to give rise to effects within the landscape by virtue of a number of attributes specific to their individual form. Such as: Their strong vertical form, movement, grouping within the landscape and the relationship with the scale and nature of the existing landscape. The study area for the LVIA extends to 15km.

The LVIA has selected nine viewpoints from within the Zone of Theoretical Visibility (ZTV). The view points selected have been chosen from locations that cover a range of landscape character areas, distances and orientations from the site and landscape and visual receptor types. The following viewpoints were selected with distance indicated from the proposed turbine:-

- a) Heath Road, north east of the site - 1km
- b) Footpath at Barlestone - 1.72km
- c) B582 at Newbold Verdon - 2.28km
- d) Ivanhoe Way at Nailstone - 2.89km
- e) Stanton Lane near Stanton under Bardon - 4.25km
- f) Leicestershire Round footpath at Sutton Cheney - 5.99km
- g) Bardon Quarry Trig Point - 7.25km
- h) Footpath at Earl Shilton - 7.87km
- i) Nob Hill at Norton-Juxta-Twycross - 12.6km

Essentially the viewpoints demonstrate that within the immediate locality it is considered that the proposed turbine would result in a high magnitude of change and that whilst there would be major/moderate effects at some of the residential properties closest to the proposed turbine. Within 1km of the site there are approximately 60 dwellings predominantly located within the hamlet of Newbold Heath to the south of the site. These properties would face significant visual sensitivity to the turbine and in some cases a high degree of impact.

Between 1km - 2.5km from the turbine the effects would start to reduce given changes in topography towards Bagworth to the north, Barlestone to the south west and Newbold Verdon to the south. Beyond 2.5km, whilst still visible within some parts of the landscape, the effects will reduce significantly.

It is therefore acknowledged that the introduction of a turbine of this scale and size would bring a significant change and a significant degree of impact upon the visual character of the immediate area surrounding the site. As the distance from the site is increase the landscape is subject to some existing industrial/urban features such as masts and poles. Therefore as the distance from the turbine is increase the turbine is likely to be viewed in the context of existing urbanised features within the landscape and therefore its impact within the landscape would be reduced but still present.

In conclusion, 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. It is considered that the proposed wind turbine, due to its scale would inevitably result in some visual impacts, particularly when seen from the nearest residential properties on the edge of Newbold Heath to the south of the site and surrounding roads and from the adjacent public rights of way. Whilst the proposed wind turbine would have visual impacts particularly in the area immediately surrounding the turbine, the significance of such impacts does depend upon on an individual's perception of the acceptability of wind energy development in landscape terms. Whilst it is accepted that

the visual impacts from some locations would be significant, such impacts will need to be weighed in the balance against the other impacts and benefits resulting from the development.

Cumulative Visual and Landscape Impact

With regard to the cumulative impacts of wind turbines consideration has been given to Paragraph 22 and 23 of the renewable and low carbon guidance as set out in the NPPG. This states that cumulative landscape impacts and cumulative visual impacts are best considered separately.

The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequence of views) and the impact this has upon the people experiencing those views. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Hence, it should not be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts.

The applicant has submitted a plan showing all other turbines (erected, consented or in planning) within the immediate and wider area up to 15km for cumulative assessment. It is considered that due to variations in topography across the landscape the following turbines within 10km of the site are suitable for cumulative assessment:-

- A single turbine with a hub height of 50 metres at Land at Lindridge Hall Farm, Lindridge Lane, Desford (application ref: 13/01030/FUL - consented, not yet erected);
- A single turbine with a hub height of 30 metres at Lindridge Farm, Lindridge Lane, Desford (application ref: 14/00133/FUL - consented, not yet erected);
- A single turbine with a hub height of 30 metres at Land North Merryless Road, Thornton (application ref: 13/00600/FUL - in the process of being erected);
- A single turbine with a hub height of 20 metres at Chestnuts, Desford Lane, Kirkby Mallory was granted consent (application ref: 12/00601/FUL - consented, not yet erected);
- Two turbines at 55 meters to hub height at Park House Farm, Leicester Lane, Desford (application reference: 11/00329/FUL - erected);
- A single turbine with a hub height of 15 metres at Oakwood Lodge, Thornton Lane, Markfield. (application ref: 12/01098/FUL - consented, not yet erected);
- Two turbines at 36 metres to hub height at Land North West of Anstey Lane, Groby (application ref: 12/00703/FUL - consented, not yet erected); and
- A single turbine with a hub height of 50 metres at Halifax Farm, Merrylees Road, Newbold Heath (application ref: 14/00532/FUL - currently awaiting determination).

The applicant has also considered a single turbine with a hub height of 24.6 metres at Forest View Farm, Peckleton Lane, Desford (application ref: 12/01121/FUL) This application was refused, but is currently under appeal and awaiting determination by the Planning Inspectorate.

The supplied photomontages and ZTV plans adequately demonstrate that the applicant has met the requirements to inform a landscape and visual impact assessment, as per the requirements of paragraph 22 and 23 of the renewable and low carbon energy guidance as set out in the NPPG.

The ZTV plans are supplied showing the proposed turbine in context of each of the turbines within the surrounding area. The maps of cumulative zones of visual influence have identified locations where the proposal would be visible with other turbines, of varying heights that exist (implemented) and consented.

The nearest turbine to the site is approximately 568 metres to the east which is currently in the process of construction at land to the north of Merrylees Road. This turbine is smaller than the one proposed at 30 metres to the hub and 42 metres to the tip height. With this turbine there would be a cumulative view from certain viewpoints within the landscape. However as the applicant's cumulative impact assessment concludes that only in a small number of locations, and within close proximity to the proposed turbine would cumulative effects at a moderate or higher level be anticipated. The large majority of locations, landscape receptors and sequential receptors will experience a very limited cumulative magnitude of change and a limited cumulative effect.

Due to the number, distance and scale of the existing consented turbines from the application site it is not considered that the introduction of a single turbine at 110 metres to the tip in this location would generate a negative or harmful cumulative visual impact in relation to the existing consented turbines in the area. Whilst turbines have been permitted and some implemented within the wider area of the site, it is not considered that this turbine would contribute to a significant cumulative impact upon the landscape. As such the proposal is considered to be in accordance with Local Plan Policies BE27 and BE1, the NPPF and the NPPG.

Ecology and Ornithology

Paragraph 109 of the NPPF recognises the wider benefits of ecosystems and that the planning system should minimise impacts on biodiversity.

The NPPG recognises that wind turbines can have ecological impacts such as a risk of collision between moving turbine blades, birds and bats. Other risks include disturbance and displacement of bird and bat habitats. Due to the drop in air pressure close to the blades there is a risk of barotrauma (lung expansion) in bats which can be fatal. These risks are generally low, however in some situations, such as in close proximity to important habitats used by birds or bats the risk can be greater.

The proposal has been considered by the Leicestershire County Council Directorate of Chief Executive (Ecology) who has raised no objections. The turbine would be sited at least 60 metres from an ecological feature that could be used by bats as per Natural England guidance. The immediate area around the site is not well wooded and is therefore unlikely to support significant populations of bats that could be impacted by the proposal, or of the more vulnerable species of birds. As such, due to the distance of the proposed turbine from any nationally designated sites and that the turbine would not be located within 60 metres of an ecological feature, it is not considered that the proposal would have any adverse impacts upon sites of ecological importance or protected species.

Impact upon Heritage Assets and the Historical Landscape

Paragraph 19 of the renewable and low carbon energy guidance as set out in the NPPG states that the significance of a heritage asset derives not only from its physical presence but also from its setting and careful consideration should be given to the impact of wind turbines on such assets. This is reinforced by Paragraph 131 of the NPPF which states that in determining planning applications local planning authorities should take account of the positive contribution the conservation of heritage assets can make to sustainable communities.

There are no statutory designated heritage assets within the immediate vicinity of the site. Policy BE5 of the Local Plan seeks to preserve the setting of listed buildings. The submitted Environmental Report states that there will be one instance where a Grade II listed building (Church Farmhouse, Barlestone) where the proposed turbine may have a neutral/slight effect upon the setting of the heritage asset. The Conservation Officer has raised no objection to the proposal. As such due to the distance of the proposed turbine from this heritage asset it is not considered that the turbine would result in an unacceptable impact upon the significance of this asset or heritage assets within the wider area that would result in the proposal being contrary to Policy BE5 or Paragraph 131 of the NPPF.

Relationship to Residential Amenity

Policy BE1 (criterion i) of the Local Plan requires that development does not adversely affect the amenity of neighbouring properties.

Paragraph 20 of the renewable and low carbon energy section of the NPPG states that shadow flicker and reflected light can be an issue under certain combinations of geographical position and the 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 which is known as shadow flicker. Only properties within 130 degrees either side of north, relative to the turbine can be affected as turbines do not cast long shadows on their southern side. It is generally accepted that the potential for shadow flicker to occur is seriously diminished at a distance of ten times the rotor diameter of the turbine in question. In this instance the diameter of the rotor would be 77 metres or 770 metres in distance when multiplied by ten. There are four properties within 770 metres to the north of the turbine that could be affected by shadow flicker. Notably Fox Covert Farm (567 metres from the proposed turbine), Heath Lodge Farm (721 metres from the proposed turbine), Oak Farm Park (722 metres from the proposed turbine), and The Ranch (751 metres from the proposed turbine). Whilst it is unlikely that an issue would occur it is possible that during the winter months when the sun is lower that shadow flicker could be a nuisance for up to half an hour a day. A condition has been imposed requiring a scheme of mitigation measures to be provided to the Local Planning Authority should a complaint be received. This would require the developer to undertake mitigation measures which may include shutting the turbine down at certain times of the day when shadow flicker is reported to be an issue. As such it is considered that shadow flicker can adequately be controlled in accordance with Paragraph 20 of the renewable and low carbon energy guidance as set out in the NPPG and Policy BE1 (criterion i) of the Local Plan.

Paragraph 15 of the renewable and low carbon energy guidance as set out in the NPPG states that the 'Assessment and Rating of Noise from Wind Farms (ETSU-R-1997)' should be used by local planning authorities when assessing and rating noise from wind energy developments. Furthermore, Policy BE27 states that the proposal should not have a detrimental impact upon surrounding properties due to noise and other forms of nuisance. The application has been accompanied by a Noise Impact Assessment which has been considered by the Head of Community Services (Pollution) who has raised no objection

subject to conditions requiring the applicant to undertake noise tests to ascertain noise levels should a complaint be received.

As such it is considered that the proposal is in accordance with Policy BE1 (criterion i) and the renewable and low carbon energy guidance as set out in the NPPG. The proposal is therefore unlikely to cause a detrimental impact upon residential amenity.

Impact on Highway Safety or Public Rights of Way

Policy T5 of the Local Plan states that proposals should not impact upon highway safety or the satisfactory functioning of the local highway network. Furthermore, Policy BE27 states the turbine should be located a minimum distance that is equal to its own height away from any public highway. Access to the site by HGVs during construction, decommissioning and for routine maintenance during operation is proposed from Bagworth Road via the existing farm access which would be upgraded. The Director of Environment and Transport (Highways) has raised no objection to the proposal subject to condition relating to access improvements, construction traffic routing and details provided and agreed prior to the commencement of development. A Transport Statement would be required to be provided and agreed prior to the commencement of development given the logistical issues that would entail with the delivery of turbine components to site.

The Public Rights of Way Officer has raised no objection and notes that the blades would not oversail either of the two footpaths closest to the proposed turbine. The proposed turbine would however be located 73 metres from the footpath which would be within the fall over distance given that the turbine would be 110 metres to blade tip. As there is no national planning policy guidance contained within the NPPF or NPPG on this matter it is not considered that the requirement as contained within Policy BE27 for the turbine to be located a minimum distance that is equal to its own height away from any public highway is in accordance with national policy and therefore the weight attached to it is reduced accordingly.

The proposal is considered to be in accordance with Policy T5 of the Local Plan and would not have a detrimental impact upon highway safety or the satisfactory functioning of the local highway network.

Impacts upon Aviation

Paragraph 31 of the Planning Guidance for Renewable and Low Carbon Energy states that wind turbines may have an adverse impact upon air traffic movement and safety either through the risk of collision with low flying aircraft or through interference with the operation of radar. In accordance with the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosive Storage Areas) Direction 2002 the Ministry of Defence (MOD) and National Air Control Transport Services (NATS) and East Midlands Airport have been consulted. No objection has been received to the proposal. The MOD have requested an aviation light with omni-directional infrared lighting is positioned to the top of the turbine and as such this has been conditioned. The proposal is therefore not considered to impact upon aviation safeguarding requirements.

Electromagnetic Interference

It is recognised in the NPPG that wind turbines can potentially affect electromagnetic transmissions. The proposal has been considered by the Joint Radio Company (on behalf of Western Power Distribution and National Grid Gas Networks) who has raised no objection to the proposal based on known interference scenarios to radio systems operated by utility companies in support of their regulatory operational requirements. It is therefore not considered that the proposal would cause any electromagnetic interference.

Environmental Impact Assessment

Following a request for a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 the local planning authority issued a Screening Opinion on 01 August 2013. The development falls within Schedule 2 under part 3(i) Energy Industry: Installations for the harnessing of wind power for energy production (wind farms). The applicable thresholds and criteria states that:-

- a) The development involves the installation of more than 2 turbines; or
- b) the hub height of any turbine or height of any other structure exceeds 15 metres.

Whilst the development does not involve the installation of more than 2 turbines, the hub height of the proposed turbine at 71 metres, does exceed 15 metres. The thresholds within Annex A of Circular 02/99 state that an "EIA is more likely to be required for commercial development of five or more turbines, or more than 5 MW of new generating capacity". The proposed generating capacity of the proposed turbine is 1.5 MW which would fall below the identified threshold of 5 MW. It was therefore considered that the whilst the proposed development falls within Schedule 2 and meets one of the applicable thresholds, the development relates to one turbine with a generating capacity of 1.5 MW and as such based on the information provided it was concluded that the development does not require an Environmental Impact Assessment within the meaning of the EIA Regulations 2011.

Other Matters

Concern has been raised from local residents about the possibility of subsidence from old mine workings that are present within the area. The applicant is proposing to erect a reinforced concrete foundation for the base. This will involve piling to a depth of between 10 and 30 metres. This would provide for a firm and stable base for the turbine itself. Should any former ground workings be found during excavation this would have to be appropriately remediated prior to construction.

Concern has also been raised in respect of the proposed route of the underground cabling required to connect the turbine to the local distribution network. The turbine would be connected to the transformer by a length of underground cable. All cables on site would be buried underground below ploughing depth. The connection to the network is proposed into a substation approximately 2.5km from the site. The indicative connection route has been shown and would run south through the site to Merrylees Road where it would be dug under the road to connect to the nearest transformer which is located to the east of Newbold Heath. All works would be carried out by Western Power Distribution under the Electricity Act 1989.

Planning permission is sought for a 25 year period. A condition has been imposed requiring a decommission statement to be prepared, submitted and agreed prior to cessation of electricity generation.

The efficiency of wind power in general and objections to the principle of wind power are not a material planning consideration.

Conclusion

The NPPF supports the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy and that local planning authorities should approve the application if its impacts are (or can be made) acceptable. The principle of development is therefore considered to be acceptable.

Whilst it is considered that the proposal would lead to some landscape and visual impact, particularly close to the site of the proposed turbine, it is considered that the magnitude of this impact would decrease with as distance is increased from the turbine. The applicant has

appropriately assessed the cumulative visual impact of the proposed turbine on the landscape within other consented and planned turbines within the area. It is considered that other than a minor degree of landscape impact close to the siting of the turbine with the adjacent consented turbine to the east, the proposal would not have an unacceptably harmful visual cumulative impact.

It is unlikely that the proposed turbine would impact upon residential amenity in relation to noise and shadow flicker. Appropriate safeguards have been put in place by condition to deal with any issues raised in respect of noise or shadow flicker.

The proposal would be acceptable from a highway safety perspective following submission and approval of a Travel Plan for delivery of components and access sightlines and upgrading. The proposed turbine would have a limited impact upon users of the adjacent public rights of way.

The proposed turbine would not cause harm to aviation or cause electromagnetic interference.

The turbine would have a limited impact upon heritage assets, the historic landscape and ecology.

Therefore on balance and after considering the issues discussed above and representations received from the local community, it is considered that the principle of development for the generation of renewable energy would outweigh the limited landscape and visual impact of the proposal. The proposal is therefore considered to be in accordance with adopted Local Plan Policies BE1, BE5, BE27 and T5 and the overarching intentions of the NPPF. In addition, regard has been had to the renewable and low carbon energy guidance as set out in the NPPG as a material consideration.

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 principle of development is considered acceptable, the proposal would not have significant detrimental visual or landscape impact, cumulative visual or landscape impact, would not impact upon ecology, historic assets, residential amenity, highway safety, public rights of way or aviation.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, BE5, BE27 and T5.

In dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Time Limit

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

Approved Plans

- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the submitted applications details, as follows and received by the local planning authority 11 April 2014:- 03136D2215-01 Site Location Plan; 03136D2503-05 Planning Application Boundary; 03136D0001-04 Turbine Location; 03136D2212-02 Turbine Layout with Micrositing; 03136D1001-03 Infrastructure Layout; 03136D2208-01 Typical Electrical Kiosk Layout; 03136D2209-01 Typical Electrical Kiosk Elevations; 03136D2206-02 Temporary Construction Compound Layout; 03136D2301-01 Crane Hardstanding General Arrangement; RES Environmental Report Vol. 1, 2 & Appendices April 2014; RES Design & Access Statement April 2014.

Date of Export to National Grid

- 3 Written confirmation of the date of the first export of electricity to the National Grid from the wind turbine hereby approved shall be provided to the local planning authority within one month of the date of this taking place.

Temporary Planning Permission

- 4 The planning permission hereby granted is temporary for a period of 25 years from the date of the first export of electricity to the National Grid from the wind turbine hereby approved. After such time the use shall cease and the turbine and associated equipment shall be removed from site in accordance with Condition 5.

Decommissioning Method Statement & Site Restoration Scheme

- 5 Not less than 12 months prior to the expiry of this permission a Decommissioning Method Statement & Site Restoration Scheme shall be submitted to and in agreed in writing by the local planning authority. This shall include details of:-
- a) the works for the removal of the turbine, ancillary equipment and structure and, foundations
 - b) works for the restoration of the site
 - c) the management and timing of any works
 - d) a Traffic Management Plan
 - e) an Environmental Management Plan to include measures to be taking during decommissioning to protect wildlife and habitats
 - f) identification of access routes
 - g) location of material laydown areas
 - h) a programme of implementation.

The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement & Site Restoration Scheme within 12 months of the expiry of this permission.

Cessation of Electricity Generation

- 6 Should the wind turbine hereby approved no longer be required for the purposes of electricity generation or cease to operate for a continuous period of 6 months then a Decommissioning Method Statement & Site restoration Scheme as per the requirements of Condition 5 shall be submitted to and agreed in writing by the local planning authority within 3 months of the end of the 6 months cessation period. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement & Site Restoration Scheme.

Turbine Parameters

- 7 a) The wind turbine shall be of a 3-bladed configuration and not exceed an overall height of 110 metres to blade tip. Prior to the erection of the wind turbine, details of the colour finish of the turbine tower, nacelle and blades shall be submitted to and approved in writing by the local planning authority.
- b) Prior to First Export Date, final details of size of the turbine tower, nacelle and blades shall be submitted to the local planning authority in the form of a revised scaled elevation plan.
- c) No name, sign, symbol or logo shall be displayed on the turbine other than to meet health and safety requirements.
- d) The development shall thereafter be carried out in accordance with the approved details.

Micrositing Allowance

- 8 Prior to works commencing on the site (other than works relating to ground survey works) the developer shall provide the precise location of all elements of the approved development and the turbine position shall not be outside the area of micrositing shown in Dwg No. 03136D2212-02 - Turbine Location with Micrositing.

Construction Method Statement

- 9 Prior to the commencement of development (with the exception of site investigations), a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The CMS shall set out details of all on-site construction works; post-construction reinstatement; mitigation; and other restoration, together with details of their schedule of works. It shall include details of, and measures to secure:-
- a) the phasing of construction works
 - b) the formation of the temporary construction compound
 - c) dust management and suppression
 - d) pollution control, including the protection of watercourses and groundwater; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and disposal and emergency procedures and pollution response plans
 - e) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS5228: Noise control on construction and open sites
 - f) storage of materials and disposal of surplus materials
 - g) access tracks, turning head and other areas of hardstanding

- h) the construction of the crane pad
- i) the carrying out of foundation works
- j) method of working cable trenches
- k) soils storage and handling
- l) post construction restoration/reinstatement of the working areas and access arrangements
- m) the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway.

The development shall then commence in full accordance with the approved Construction Method Statement.

Transport Management Plan

- 10 Before the development hereby approved is commenced (with the exception of site investigations), a Transport Management Plan (TMP) shall be submitted to and approved in writing by the local planning authority. The TMP shall set out details and schedule of works and measures to secure:-
- a) cleaning of site entrance, facilities for wheel washing, vehicle parking and turning facilities
 - b) the construction of the access into the site, the erection of any entrance gates, barriers, bollards, chains or other such obstructions
 - c) creation and maintenance of visibility splays of 2.4m by 215m, with no vegetation growing above a height of 0.6m above ground level
 - d) any works to the public highway including temporary widening and/or replacement of street furniture
 - e) details of the route to be used to access the site, including measures to ensure a highway condition inspection prior to commencement and any required repair works upon completion of construction.

Electrical Kiosks

- 11 Prior to the erection of the electrical kiosks, details of the colour and type of materials to be used for the external walls and roofs shall 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.

Shadow Flicker

- 12 Prior to the First Export Date, a scheme setting out a protocol for the assessment of shadow flicker in the event of any complaint being received, including the remedial measures to be taken, shall be submitted to and approved in writing by the local planning authority. Operation of the turbine shall be in accordance with the approved protocol.

Television/Radio Interference

- 13 Prior to the First Export Date, details of a benchmark survey in respect of radio transmissions and provisions for subsequent mitigation if Television/Radio interference is experienced following operation, will be submitted to and approved in writing by the local planning authority.

Aviation Safeguarding

- 14 The operator must notify the local planning authority in consultation with East Midlands Airport and the Ministry of Defence within 1 month of the turbine commencing operation.
- 15 The turbine must be fitted at all times with candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

Underground Cabling

- 16 All cabling on the site between the turbine and the connection point to the local distribution network shall be installed underground.

Tree Planting

- 17 Prior to the commencement of development (with the exception of site investigations and site clearance works), a tree planting scheme and maintenance schedule shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented within eight months of the completion of the construction works.

Ecology & Ornithology

- 18 Prior to the commencement of development (with the exception of site investigations), a scheme for the implementation of the recommended ecological and ornithological mitigation measures as set out in Section 5 and 6 of the submitted Environmental Report and associated Appendix shall be submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be implemented in accordance with the approved details.

Noise

- 19 The level of noise emissions from the wind turbine (including the application of any tonal penalty) when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table 1 or Table 2 (as appropriate). Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the Tables attached shall be those of the physically closest location listed in the Tables unless otherwise agreed with the local planning authority. The coordinate locations to be used in determining the location of each of the dwellings listed in Tables 1 and 2 shall be those listed in Table 3.
- 20 Within 21 days from the receipt of a written request from the local planning authority and following a complaint to the local planning authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at the wind turbine operators expense, employ an independent consultant approved by the local planning authority to assess the level of noise emissions from the wind turbine at the complainant's property following the procedures described in the attached Guidance Notes.
- 21 The wind turbine operator shall provide to the local planning authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided

within 2 months of the date of the written request of the local planning authority, with an additional 3 weeks allowed should further investigation pursuant to Guidance Note 4 be required, unless otherwise extended in writing by the local planning authority.

- 22 No development shall commence until there has been submitted to the local planning authority details of a nominated representative for the development to act as a point of contact for local residents (in connection with Conditions 19 to 21) together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the local planning authority in connection with any noise complaints made during the construction, operation and decommissioning of the wind turbine.

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 This permission is temporary and as such notification of commencement of the export of electricity to the National Grid is required to maintain proper record.
- 4 This permission is temporary for a period of 25 years following first export to the National Grid.
- 5 In the interests of visual amenity and to order to ensure the site is restored to a satisfactory appearance following decommission of the turbine in accordance with Policy BE1 (criterion a) of the Hinckley & Bosworth Local Plan 2001.
- 6 To ensure the development is used for sustainable renewable energy generation in accordance with Paragraph 93 of the NPPF.
- 7 In the interests of visual amenity in accordance with Policy BE1 (criterion a) of the Hinckley & Bosworth Local Plan 2001.
- 8 To ensure the precise siting of the development is in accordance with the parameters of the consent.
- 9 In the interests of residential amenity and highway safety in accordance with Policies BE1 (criterion i) and T5 of the Hinckley & Bosworth Local Plan 2001.
- 10 In the interests of highway safety in accordance with Policy T5 of the Hinckley & Bosworth Local Plan 2001.
- 11 In the interests of visual amenity in accordance with Policy BE1 (criterion a) of the Hinckley & Bosworth Local Plan 2001.
- 12 In the interests of residential amenity in accordance with Policies BE1 (criterion i) of the Hinckley & Bosworth Local Plan 2001.
- 13 In the interests of maintaining effective communication and transmission links in accordance with Paragraph 17 of the renewable energy and low carbon guidance contained within the NPPG.

- 14 To enable proper record to be kept of operational wind turbines to aid aviation safeguarding as per Paragraph 16 of the renewable energy and low carbon guidance contained within the NPPG.
- 15 In the interests of aviation safeguarding as per Paragraph 16 of the renewable energy and low carbon guidance contained within the NPPG.
- 16 In the interests of visual amenity in accordance with Policy BE1 (criterion a) and Policy BE27 (criterion e) of the Hinckley & Bosworth Local Plan 2001.
- 17 In the interests of providing landscaping to enhance visual amenity and biodiversity in accordance with Paragraph 109 of the Hinckley & Bosworth Local Plan 2001.
- 18 In the interests of biodiversity in accordance with Paragraph 109 of the Hinckley & Bosworth Local Plan 2001.
- 19-22 To protect the amenity of residents in accordance with Policy BE1 and BE27 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.
- 4 The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway (including the vehicular site access and accommodation works) and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the Highway works are commenced.

This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -

For 'major' accesses - see Part 6 of the "6Cs Design Guide" at www.leics.gov.uk/6csdg.

If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the Highway. It is likely that any sign erected in the Highway without prior approval will be removed.

Before you draw up a scheme, the Area Managers' staff (contacts as below) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable. This will reduce the amount of your abortive sign design work (telephone 0116 3050001).

A full construction programme should be submitted to the Highway Authority. The construction programme shall contain details of proposed Temporary Traffic Regulation Orders/Road Closure Orders. Any Temporary Traffic Regulation Orders/Road Closure Orders required as a consequence of the construction of the development, shall be funded entirely by the applicant/developer. The Highway Authority requires a minimum of 12 weeks prior notice of any required Temporary Traffic Regulation Orders/Road Closure Orders.

Public footpaths cross the site and must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.

5 SCHEDULE OF NOISE GUIDANCE NOTES:-

These notes form part of conditions 19-21. They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise emissions from the wind turbine.

Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farm" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

NOTE 1

- a) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local Planning Authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground at a location agreed with the Local Planning Authority.
- c) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and with operational data, including power generation information for the wind turbine, from the turbine control system of the wind turbine.
- d) The wind turbine operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods on the wind turbine site to enable compliance with the conditions to be evaluated. The mean wind speed

at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

NOTE 2

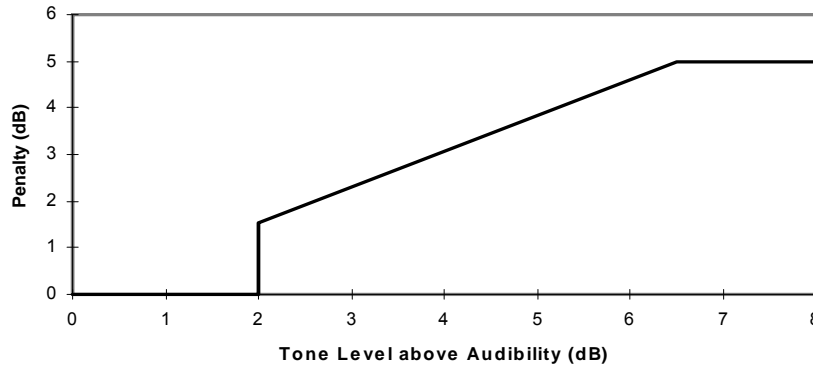
- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise.
- b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.
- c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured $L_{A90,10min}$ noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

NOTE 3

Where, in the opinion of the Local Planning Authority, noise emissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used.

- a) For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise emissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta L_{tm}), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.
- c) The arithmetic average margin above audibility shall be calculated for each wind speed bin where data is available, each bin being 1 metre per second wide and centred on integer wind speeds. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

- d) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind turbine noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



NOTE 4

If the wind turbine noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind turbine switched off in order to determine the background noise, L_3 , at the assessed wind speed. The wind turbine noise at this wind speed, L_1 , is then calculated as follows, where L_2 is the measured wind turbine noise level at the assessed wind speed with the turbine running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The wind turbine noise level is re-calculated by adding the tonal penalty (if any) to the wind turbine noise.

TABLE OF NOISE LIMITS RELATING TO CONDITION 18

Table 1: The $L_{A90,10min}$ dB Wind Turbine Noise Level Between 23:00 and 07:00 hours:

House ID	House Name	Standardised Wind Speed at 10 m Height, (ms-1)												
		1	2	3	4	5	6	7	8	9	10	11	12	
H2	Oak Farm Park	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.2	46.9	50.6	54.1
H3	6-10 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H4	Chestnut Cottage	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H5	41-45 Bagworth Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H6	Orchards Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3

House ID	House Name	Standardised Wind Speed at 10 m Height, (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H7	Fox Covert Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.4	48.8	53.0	56.8	59.9
H8	59 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H9	Chater House Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H10	The Lodge	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.4	48.8	53.0	56.8	59.9
H11	Heath Lodge Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H12	2-4 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H13	Woodside Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.4	48.8	53.0	56.8	59.9
H14	Garlands Lane Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.2	46.9	50.6	54.1
H15	22-26 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H16	Heath House	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.4	48.8	53.0	56.8	59.9
H17	29 Bagworth Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H18	The Ranch	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.2	46.9	50.6	54.1
H19	25-33 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H20	Garland Gables	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.2	46.9	50.6	54.1
H21	1 Bagworth Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H22	33-37 Bagworth Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H23	39 Bagworth Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H24	The Corner House	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H25	14-20 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H26	3-5 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H27	7-9 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3
H28	11-19 Merrylees Road	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	47.2	50.6	54.0	57.3

Table 2: The L_{A90,10min} dB Wind Turbine Noise Level at all other times:

House ID	House Name	Standardised Wind Speed at 10 m Height, (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H2	Oak Farm Park	42.3	42.3	42.3	42.3	42.5	43.0	43.9	45.2	47.1	49.5	52.5	56.3
H3	6-10 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H4	Chestnut Cottage	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H5	41-45 Bagworth Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H6	Orchards Farm	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H7	Fox Covert Farm	38.9	38.9	38.9	39.3	40.5	42.2	44.5	47.1	50.0	53.0	56.1	59.1
H8	59 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H9	Chater House Farm	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H10	The Lodge	38.4	38.4	38.4	39.3	40.5	42.2	44.5	47.1	50.0	53.0	56.1	59.1
H11	Heath Lodge Farm	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H12	2-4 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H13	Woodside Farm	38.9	38.9	38.9	39.3	40.5	42.2	44.5	47.1	50.0	53.0	56.1	59.1
H14	Garlands Lane Farm	42.3	42.3	42.3	42.3	42.5	43.0	43.9	45.2	47.1	49.5	52.5	56.3
H15	22-26 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H16	Heath House	38.9	38.9	38.9	39.3	40.5	42.2	44.5	47.1	50.0	53.0	56.1	59.1
H17	29 Bagworth Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H18	The Ranch	42.3	42.3	42.3	42.3	42.5	43.0	43.9	45.2	47.1	49.5	52.5	56.3
H19	25-33 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H20	Garland Gables	42.3	42.3	42.3	42.3	42.5	43.0	43.9	45.2	47.1	49.5	52.5	56.3
H21	1 Bagworth Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H22	33-37 Bagworth Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H23	39 Bagworth Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H24	The Corner House	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H25	14-20 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H26	3-5	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5

House ID	House Name	Standardised Wind Speed at 10 m Height, (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
	Merrylees Road												
H27	7-9 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5
H28	11-19 Merrylees Road	46.0	46.0	46.0	46.0	46.0	46.4	47.3	48.6	50.4	52.6	55.3	58.5

TABLE OF COORDINATE LOCATIONS OF PROPERTIES

Note to Table 3: The geographical co-ordinates references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Table 3: Coordinate locations of the properties listed in Table 1 & 2

House Name	House ID	OSGB Co-ordinates	
		X (m)	Y (m)
Oak Farm Park	H2	444376	306572
6-10 Merrylees Road	H3	444540	305136
Chestnut Cottage	H4	444497	305119
41-45 Bagworth Road	H5	444497	305194
Orchards Farm	H6	444452	305227
Fox Covert Farm	H7	444982	306583
59 Merrylees Road	H8	444670	305124
Chater House Farm	H9	445011	305204
The Lodge	H10	445841	305787
Heath Lodge Farm	H11	444365	305501
2-4 Merrylees Road	H12	444512	305123
Woodside Farm	H13	445692	306418
Garlands Lane Farm	H14	444248	306587
22-26 Merrylees Road	H15	444592	305141
Heath House	H16	445868	306213
29 Bagworth Road	H17	444486	305138
The Ranch	H18	444308	306547
25-33 Merrylees Road	H19	444555	305103
Garland Gables	H20	444271	306581
1 Bagworth Road	H21	444455	305078
33-37 Bagworth Road	H22	444483	305154
39 Bagworth Road	H23	444489	305175
The Corner House	H24	444479	305119
14-20 Merrylees Road	H25	444572	305136
3-5 Merrylees Road	H26	444473	305082
7-9 Merrylees Road	H27	444493	305087
11-19 Merrylees Road	H28	444524	305096

End of Informatives

Contact Officer:- Simon Atha Ext 5919

Item: 05
Reference: 14/00526/CONDIT
Applicant: Mr R Sokhi
Location: Bubble Boyz Car Wash Watling Street Hinckley
Proposal: Variation of condition 3 of planning permission APP/K2420/A/12/2186862 (12/00338/COU) to extend opening hours
Target Date: 23 July 2014

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, at the request of the Chief Planning and Development Officer.

Application Proposal

This application seeks to vary condition 3 of planning permission 12/00338/COU which was allowed on appeal APP/K2420/A/12/2186862. The appeal granted consent for the retrospective change of use to a hand car wash.

Condition 3 of this permission states:-

The use hereby permitted shall not be open to customers outside the following times: 0800 to 18.30 hrs. Mondays to Saturdays (except Bank Holidays) and 08.00 to 16.00 hrs on Sundays and Bank Holidays.

The applicant is proposing to vary this condition to the following:-

The use hereby permitted shall not be open to customers outside the following times: 0800 to 18.30 hrs. Mondays to Saturdays (except Bank Holidays) and 08:00 - 17:00 hrs Monday to Sunday including Bank Holidays.

The applicant is therefore effectively seeking to gain consent to open to customers for an extra hour between 16:00 to 17:00 on Sundays and Bank Holidays.

A previous application was submitted (14/00208/CONDIT) to extend the opening hours until 18:30 hrs on Sundays and Bank Holidays which was withdrawn by the applicant.

The Site and Surrounding Area

The site consists of an area of 1156 sq m, located to the north of the A5, Watling Street, to the east of the Dodwells traffic island, within the defined settlement boundary of Hinckley. The site consists is a single storey building occupied by Bengal Chef (Indian restaurant), Bubble Boyz (subject of the application) and Enterprise (car hire). The buildings are set back from the highway behind a concrete forecourt that has two raised concrete islands located in the centre. The site has two accesses to the A5 which is at a higher ground level than the application site. There is vehicular access and parking to the rear of the Bengal Chef.

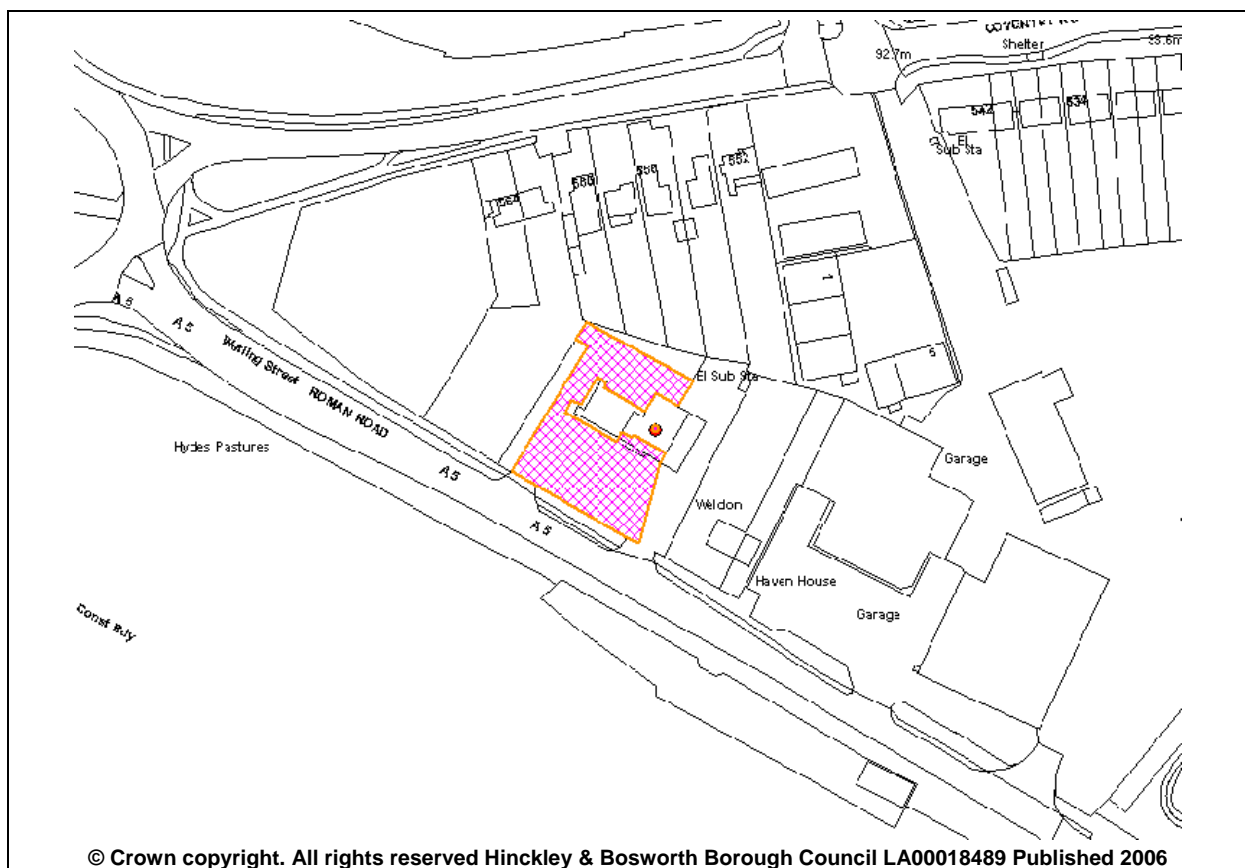
The northern and western boundary of the site abuts the rear gardens of residential properties on Coventry Road notably Nos. 554, 556, 558, 560 and 562. Whilst to the south east are two semi-detached residential properties known as 'Weldon' and 'Haven House'. Paynes garage and car dealership and showroom exists further to the south east. To the south and across the A5, the site faces the countryside.

Technical Documents submitted with application

None relevant.

Relevant Planning History:-

14/00208/CONDIT	Variation of condition 3 of planning permission APP/K2420/A/12/2186862 (12/00338/COU) to extend opening hours	Withdrawn	27.05.14
12/00338/COU	Change of Use to Hand Vehicle Car Wash (Retrospective)	Allowed on Appeal	30.04.13



Consultations:-

Site notice was displayed and neighbours notified.

Comments have been received from:-

Head of Community Services (Pollution)

Since September 2012 limited complaints have been received from 2 local residents to the site regarding noise from various sources associated with the use of the site i.e. music, shouting, pressure washing. The complaint was closed in February 2014 owing to no significant impact being established from noise however a new noise complaint against Bubble Boys has recently been received and is being investigated.

If background noise did drop off in the area after 4pm on a Sunday owing to a reduction in traffic noise or other commercial premises closing then this may reduce the background noise and therefore the noise from Bubble Boys could become more dominant. This could then increase impact from noise on residential premises. However without background and site specific noise data this can not be confirmed. The operation is sited within an area of mixed commercial/industrial/residential uses and a main trunk road generating a high noise environment even on a Sunday. The use is not unusual for such an area and does not create a significant amount of noise above that of the existing uses. I therefore have no justification to object to this application. If noise complaints are received then the noise sources on site can be managed through nuisance legislation.

West Clarendon Hinckley Neighbourhood Forum objects to the proposal. Summary of comments:-

- a) the car wash operated for almost three years without applying for planning permission
- b) the Bubble Boyz operated a fast food outlet on the site, again without planning permission. Eventually they got approval for a Café on site
- c) it must be taken into account that to this day they breach the conditions of operation in respect of the car wash, by operating outside the boundary on the front of the building
- d) there have been reports of spray from chemicals drifting into residents' gardens
- e) reports of workers climbing over a rear garden fence and stealing apples
- f) there have been breaches to the hours condition already
- g) there has been a car sales business from the same site, with staff often pushing vehicles by hand across the A5 from a field on the opposite side resulting in an accident on the A5
- h) noise has been a significant irritant at times, particularly revving of engines, shouting, and the sounding of car horns.

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012
The National Planning Practice Guidance (NPPG) 2014

Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development

Appraisal:-

The determining issue is the impact of the alteration to the hours on the amenity and living conditions of the residents of neighbouring properties close to the site. The existing enforcement issues are also noted.

Consideration has been given to comments made by the Head of Community Services (Pollution) and the Residents' Forum in respect of the fact that with lower background noise at later times in the evening on Sundays and Bank Holidays Bubble Boyz could become more of a noise impact. Despite this it is considered, on balance, that the proposed variation would still result in a greater impact than the existing situation and therefore would still result in a greater degree of harm.

In the appeal decision notice the Inspector justifies his rationale for imposing such an hours restriction at paragraph 11. This states:-

'The appellants have stated the hours of opening to be 0800 to 1800 Mondays to Fridays and 0800 to 1600 at weekends although there is strong evidence of activity as late as 19.30 and advertisements stating 0800 to 1830, 7 days a week. The operator of the adjacent Bengali restaurant has described the effect on his business of car wash activity outside the restaurant, which is a factor to which I accord weight. The Council have not formally requested an hours of opening limitation although a supplementary officer's report did recommend such a condition should permission have been granted. From the evidence I have, I consider that to protect the adjacent business the car wash hours should be limited by condition to 0800-18.30hrs but I see no reason to differentiate Saturday from weekdays. Sundays and Bank Holidays tend to be quieter days generally. On those days a 16.00hrs. closing time would be reasonable, to protect the living conditions of nearby residents.'

No evidence has been presented in support of this application to suggest that the situation at the site has changed significantly in the last twelve months since the Inspector issued his decision to amend the hours of operation on Sundays and Bank Holidays.

The previous Inspector considered that a 16:00hrs closing time would be reasonable and important to protect the living conditions of nearby residents, in particular but also the operations of the neighbouring Bengali restaurant.

It is considered that an extension of hours to 17:00hrs on Sundays and Bank Holidays would have a detrimental impact upon the amenity of neighbouring properties through noise and disturbance as a result of the operation of the car wash. Sundays and Bank Holidays are times when residents more often than not choose to enjoy their gardens and make use of their external amenity space, particularly in the summer months. Closing at 16:00hrs is a fair and reasonable balance which maintains the right of the car wash to operate on Sundays and Bank Holidays but affords local residents the protection and satisfaction in respect of safeguarding their amenity.

For that reason it is considered that the proposed variation of condition would be contrary to Policy BE1 (criterion i) of the Local Plan as it would lead to an adverse and detrimental impact upon the amenity of neighbouring properties.

Officers also note the comments of the Residents' Forum with regard to the use of the land for car sales and breaches of hours. The site will continue to be monitored and investigated by Officers and action will be taken where appropriate. Matters arising from complaints in connection with the running of the existing operation are matters for noise nuisance legislation and is under investigation by Environmental Health Officers.

RECOMMENDATION:- REFUSE, for the following reasons:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Reasons:-

- 1 Having regard to the purpose of the condition and previous Inspector's reasoning, the proposed variation of condition to extend the opening hours of the hand car wash until 17:00hrs on Sundays and Bank Holidays would lead to a detrimental impact upon the amenity of neighbouring properties as a result of noise and disturbance. The proposal is therefore contrary to Policy BE1 (criterion i) of the Hinckley & Bosworth Local Plan 2001.

Contact Officer:- Simon Atha Ext 5919

Item: 06

Reference: 14/00587/FUL

Applicant: Mr D B Griffin

Location: Kirkby Fields Farm 10 Newbold Road Kirkby Mallory

Proposal: Proposed agricultural building

Target Date: 7 August 2014

Introduction:-

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

Application Proposal

This application seeks full planning permission for the erection of an agricultural building that forms part of an established farm complex at Kirkby Fields Farm, Newbold Road, Kirkby Mallory.

The proposed agricultural building would sit as an extension to an existing row of agricultural buildings. The building would measure approximately 24 metres by 23 metres and would be 536 square metres in size.

The building would be used for the storage of hay and straw in connection with the applicant's cattle farm. The building would feature a sloping pitched roof covered in grey fibre cement sheeting. The building would be steel portal framed with three sides open.

The Site and Surrounding Area

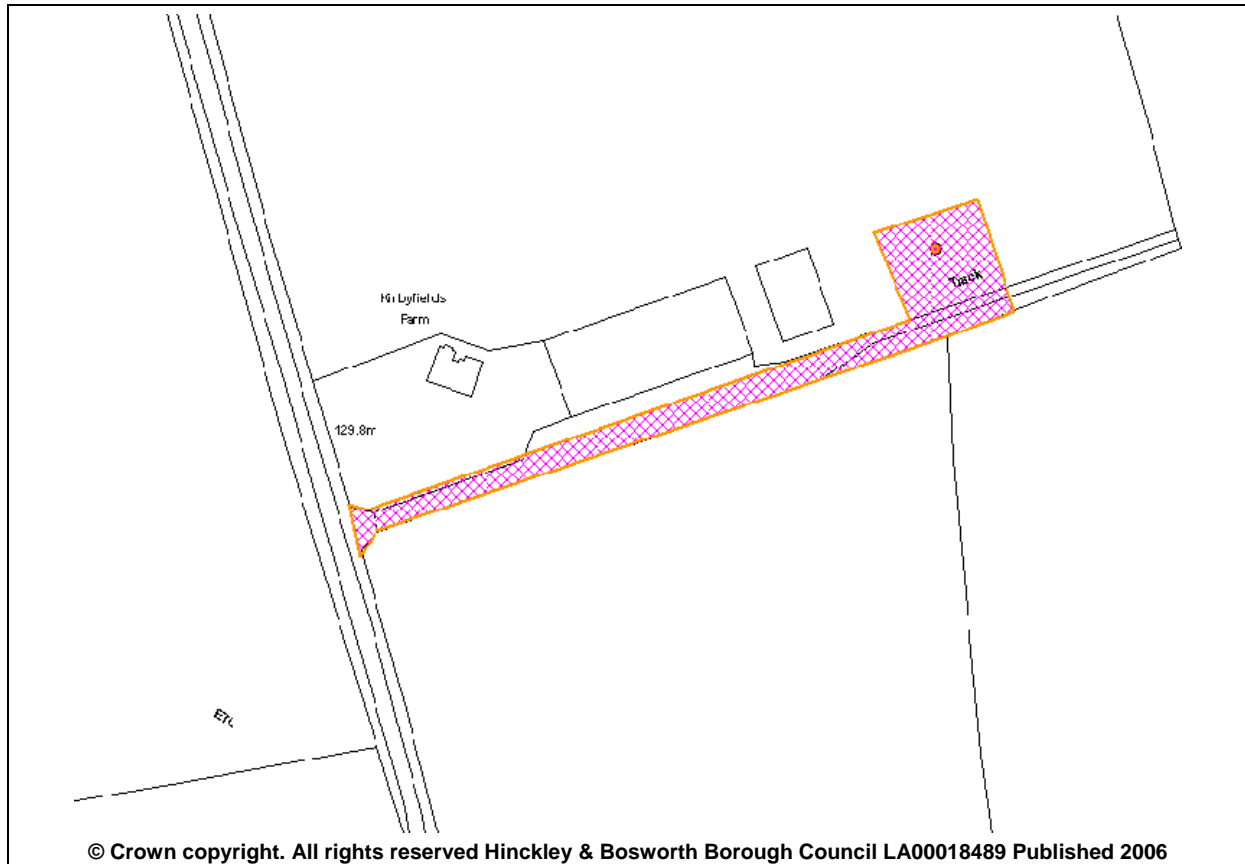
Kirkby Fields Farm covers is located in the countryside to the north of Kirkby Mallory. Access to the farm complex is off Newbold Road to the west via a single unmade track. The existing complex of buildings includes a farmhouse and a mix of agricultural and cattle buildings of varying size and scale, including buildings of similar size, scale and appearance to the proposed extension set in a row running east to west. Ground levels are generally flat and level. A mature field boundary hedgerow along the access track provides screening to the south.

Relevant Planning History:-

10/00997/FUL

Erection of an Agricultural Building Approved

06.04.11



Consultations:-

Site notice was displayed and neighbours notified.

No objections have been received from:-

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

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development
Policy NE5: Development in the Countryside
Policy T5: Highway Safety

Supplementary Planning Guidance/Documents

Design of Farm Buildings (SPG)

Appraisal:-

The main considerations in respect of this application are:-

- a) The principle of development
- b) The design of the building and the relationship to the surrounding countryside
- c) Relationship to neighbouring and nearby residential amenity, and
- d) Highway safety.

Principle of development

The National Planning Policy Framework (NPPF) provides a presumption in favour of sustainable development. One of the overarching principles of the NPPF is to protect the countryside but to allow sustainable development where it is appropriate. The NPPF also supports the development of agricultural businesses in order to promote a strong rural economy.

The farm is a well established dairy business and the proposed agricultural building for the storage of straw and hay is considered to be an appropriate and justified agricultural use in the countryside and will enhance the viability of this rural business.

The proposal is considered to be sustainable economic development and in accordance with the overarching principles of the NPPF and Policy NE5 (criteria a and b) of the adopted Local Plan and therefore acceptable in principle subject to all other planning matters being addressed.

The design of the building and the relationship to the surrounding countryside

Good design as a key aspect of sustainable development. The proposal would effectively continue and extend the run of agricultural buildings to the east of the existing farm complex. The proposed agricultural building would be of similar scale, design and appearance and is therefore well related to the existing farm complex in terms of its siting, scale and appearance and is typical of the form and design of modern agricultural buildings. By virtue of its siting adjacent to an existing building of similar scale, higher ground levels to the north and screening in the form of a hedgerow to the south, the proposal will not be seen from the public highway or appear unduly prominent or have any material adverse impact on the character or visual appearance of the surrounding landscape.

The proposal is considered to be in keeping with the character of the site and surrounding landscape in accordance with Policy NE5 (criteria i, ii and iii) and BE1 (criterion a) of the adopted Local Plan and the SPG on the Design of Farm Buildings together with the overarching design principles of the NPPF.

Relationship to neighbouring and nearby residential amenity

Other than the associated farmhouse, there are no residential properties close to the site. By virtue of the existing agricultural/livestock uses of the site, the separation distance and screening provided by existing field boundary hedgerow, the proposal will have no adverse impact on the amenities of any residential properties and is in accordance with Policy BE1 (criterion i) of the adopted Local Plan.

Highway Safety

There is adequate access, parking and manoeuvring within the farm complex to accommodate traffic associated with the proposed building. The proposal is therefore considered to be in accordance with Policies NE5 (criterion iv), BE1 (criterion g) and T5 of the adopted Local Plan.

Conclusion

The NPPF supports sustainable development of agricultural businesses in rural areas. The proposed agricultural building for the storage of hay and straw is considered to be sustainable and therefore acceptable in principle. By virtue of its siting, scale, design and appearance the proposal will complement the character of the site and will not have any adverse impact on the character or appearance of the surrounding countryside. By virtue of the existing agricultural livestock use of the site, separation distances and existing screening by hedgerows the proposal will have no adverse impact on the residential amenities of any neighbouring properties. The proposal will not have any adverse impact on highway safety.

The proposal is in accordance with adopted Local Plan Policies NE5 (criteria a, b, i, ii, iii and iv), BE1 (criteria a, g and i) and T5 of the adopted Local Plan, the SPG on the Design of Farm Buildings together with the overarching principles of the NPPF.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the principle of development is considered acceptable within the farm setting and by virtue of the siting, scale, design and proposed materials there would not be any adverse impact on the character or appearance of the site or surrounding countryside, residential amenity or highway safety.

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

In dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

- 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 1:5000, Proposed Site Plan 1:2500 and Proposed Block Plan 1:500, Floor Plans & Elevations 1:200 received by the local planning authority on 12 June 2014.
- 3 The development shall be constructed in accordance with the material details shown on section 9 of the application form.

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 the satisfactory appearance of the development in accordance with Policy BE1 of the adopted Local Plan.

Notes to Applicant:-

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

Contact Officer:- Simon Atha Ext 5919