

PLANNING COMMITTEE

16 September 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: 14/00307/FUL
Applicant: Linda Garner
Location: 20 Kingsfield Road Barwell
Proposal: Erection of two new dwellings and associated access
Target Date: 26 June 2014

RECOMMENDATION:- Grant subject to conditions.

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 and amended plans and additional technical information has been submitted during the application procedure.

Application Proposal

This application seeks full planning permission for the erection of 2 x detached, two storey, four bedroom dwellings and associated access involving the subdivision of an existing garden. The proposed dwellings will be located to the rear of the existing dwelling and have a traditional design with hipped roof and subordinate two storey front projection. Three parking spaces are proposed to the front of each of the dwellings with two spaces proposed to be positioned to the side of the existing dwelling and a passing place along the new 3 metres wide shared access.

The Site and Surrounding Area

The site area measures approximately 780 square metres. The existing property is a detached two storey gable fronted dwelling set in a large plot fronting onto Kingsfield Road and located in an area of Barwell where there are both residential and commercial uses. There is a 6 metres wide tarmac driveway to the side leading to a timber garage that will be demolished to enable access to the rear. The long rear garden is defined by a mix of hedgerows and fencing. There is a mature tree protected by a Tree Preservation Order located close to the rear boundary. There is a residential estate to the rear, existing residential development at depth to the north east and an industrial/commercial building at depth to the south west.

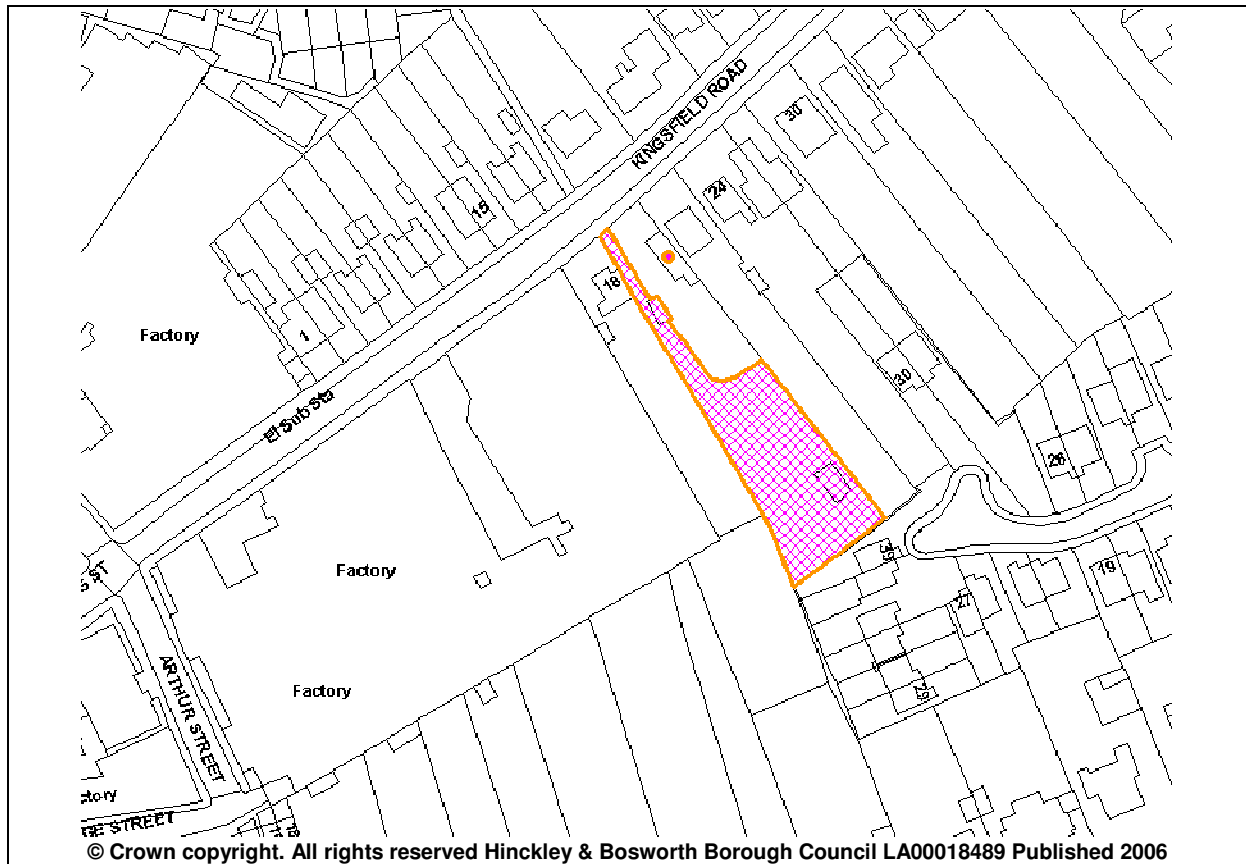
Technical Documents submitted with application

A Design and Access Statement, and Legal Agreement have been submitted to support the application.

A Tree Impact Assessment and amended block and site layout plan have been submitted to address concerns raised in respect of the relationship of the adjacent mature Horse Chestnut tree protected by a Tree Preservation Order. Re-consultation has been undertaken.

Relevant Planning History:-

None relevant.



Consultations:-

No objection has been received from:-

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

Barwell Parish Council do not object but request two replacement trees for those lost as a result of the development and for contributions towards play and open space facilities.

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)
Head of Business Development and Street Scene Services (Waste Minimisation)
Borough Council's Tree Officer.

Site notice posted and neighbours notified, objections have been received from eight different addresses and one from another person acting on behalf of one objector. The objections received are summarised as follows:-

- a) the mature tree in close proximity to the rear boundary of the application site, by reason of its height, proximity, structural condition and infestation with leaf minor moths has a detrimental and adverse impact on the structure of adjacent dwellings and residential amenity including loss of light and should therefore be cut back or removed

- b) loss of privacy from overlooking
- c) uncharacteristic and inappropriate development adjacent to an industrial/commercial area
- d) access onto the road is not good
- e) no additional housing is required
- f) affordable housing is required
- g) tree affects property value
- h) noise and disturbance from construction.

Policy:-

National Policy Guidance

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

Local Plan 2006-2026: Core Strategy 2009

Policy 3: Development in Barwell
Policy 24: Sustainable Design and Technology

Hinckley and Bosworth Local Plan 2001

The site is within the settlement boundary of Barwell as defined in the adopted Hinckley & Bosworth Local Plan.

Policy BE1: Design and Siting of Development
Policy NE12: Landscaping Schemes
Policy T5: Highway Design & Vehicle Parking Standards
Policy IMP1: Contributions Towards the Provision of Infrastructure & Facilities
Policy REC3: New Residential Development - Outdoor Play Space for Children

Supplementary Planning Guidance/Supplementary Planning Documents

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

Appraisal:-

The main considerations with regards to this application are the principle of development, the layout and design of the proposed development and its relationship to the character and appearance of the surrounding area, the amenities of neighbouring properties, highway safety and existing trees together with developer contributions, sustainable design and other issues.

Principle of Development

The National Planning Policy Framework (NPPF) provides a presumption in favour of sustainable development. The application site is located in a sustainable location within the settlement boundary of Barwell and within a reasonable distance of amenities and public transport. The proposal will contribute to the social role of sustainable development by providing additional housing to contribute to meeting the current shortfall of 23 dwellings in Barwell to meet the minimum requirement identified in Policy 3 of the adopted Core Strategy. Notwithstanding consideration of the objections received on the grounds that no additional

housing is required, the proposal is considered to be acceptable in principle subject to all other planning matters being appropriately addressed.

Siting, Layout, Design and Relationship to the Character and Appearance of the Area

Policy BE1 (criterion a) of the adopted Local Plan seeks to ensure that the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, design, materials and architectural features' with the intention of preventing development that is out of keeping with the character of the surrounding area. The Council's adopted Supplementary Planning Guidance on New Residential Development aims to ensure that new development has regard to the character of the surrounding area and is well integrated into its surroundings.

Objections have been received on the grounds that the proposal is uncharacteristic and inappropriate development of the area and adjacent to an industrial/commercial area which are noted and carefully considered.

Notwithstanding that the siting and layout of the proposal would result in 'backland' development, in this case there is existing development at depth in the form of two semi-detached houses approximately 20 metres to the north east and a development of detached dwellings at depth a further 80 metres to the north east. Between these developments, a recent application to the rear of 36 Kingsfield Road for five new dwellings has been granted planning permission (reference 13/01015/FUL). In addition there is a separate residential estate to the south east and a large factory building at a similar depth to the west. By virtue of the presence of existing development at depth, the proposed layout would reflect the general pattern and form of surrounding residential development and not therefore adversely affect the character or appearance of the surrounding area. There is a mix of scales, designs and styles in the wider area but dwellings are predominantly detached and of individual design and traditional style on Kingsfield Road. The footprint of the proposed dwellings is not significantly larger than existing dwellings on Kingsfield Road and the plot is of adequate size to provide satisfactory off-street vehicle parking and private amenity space for both new dwellings and the existing dwelling to meet SPG standards. The proposed dwellings have a traditional design and style with hipped pitched roof and subordinate two storey front projections and are therefore characteristic of surrounding development and acceptable in design terms. No material samples have been submitted for assessment but this detail can be controlled by a condition. Notwithstanding the objections received which have been carefully considered, the Head of Community Services (Pollution) raises no objection to the scheme in terms of any adverse impact on residential amenity of the future occupiers from its proximity to industrial units to the west and therefore it is considered that refusal of the application on these grounds cannot be sustained.

As a result of the layout and design and subject to a condition to control their external appearance, the proposed development will complement the character of the surrounding area in accordance with Policy BE1 (criterion a), the Council's SPG on New Residential Development and the overarching principles of the NPPF.

Relationship to Neighbouring Properties

Criterion (i) of Policy BE1 of the adopted Local Plan requires that development does not adversely affect the occupiers of neighbouring properties. The Council's Supplementary Planning Guidance (SPG) on New Residential Development states that proposals should not have a detrimental impact on the amenities and privacy enjoyed by the occupiers of adjoining property.

Objections to the proposal have been received on the grounds that the scheme will result in overlooking and loss of privacy to neighbouring dwellings and these have been carefully considered.

The proposed dwellings are two storeys in height and have first floor windows that face towards the rear of 20 Kingsfield Road and the neighbouring dwellings either side. However, by virtue of the separation distances of 35 metres and above to the rear elevations of these dwellings and the off set of the neighbouring gardens it is considered that the proposal will have no adverse overbearing impact or result in any loss of privacy from overlooking.

The proposed dwellings also have first floor rear elevation windows facing towards the side elevation and rear garden of 39 Greenhill Drive, Barwell. However, by virtue of the separation distance of 31 metres to the boundary and the mature tree close to the rear boundary which provides screening it is considered that the proposal will have no adverse overbearing impact or result in any loss of privacy from overlooking to the occupiers or that of the existing dwellings beyond.

There is currently only a 1 metre high timber fence along the boundary with 22 Kingsfield Road and in order to protect privacy a new fence to a minimum of 1.8 metres will be required to protect the privacy of the occupiers. There are side elevation staircase windows above ground floor in both of the proposed dwellings that face towards the bottom of the gardens of Nos. 18 and 22 Kingsfield Road, however, subject to these windows being a fixed type and fitted with obscure glazing the proposal will not result in any loss of privacy from overlooking to the neighbouring gardens.

The new shared access driveway will result in vehicle movements adjacent to the rear side boundary of 18 Kingsfield Road where none currently exist. However, the proposal is for only two dwellings therefore the level of traffic movements is unlikely to be excessive or to a degree that would have any adverse impact on amenity and the proposed layout includes a 0.5 metres wide verge between the drive and side boundary. Satisfactory boundary treatment and landscaping to further reduce any impact can be secured by condition.

A new 1.8 metres high close boarded fence is to be erected around the rear garden of 20 Kingsfield Road to protect the privacy and amenity of the occupiers.

Noise and disturbance from construction of the development would only be for a temporary period and would not therefore have any long term adverse impact on residential amenity.

Notwithstanding the objections received which have been carefully considered, as a result of the layout and design, the proposed scheme is not considered to result in any adverse impacts on the residential amenities of neighbouring properties from overbearing/overshadowing impact or loss of privacy from overlooking and is therefore in accordance with Policy BE1 (criterion i) of the adopted Local Plan, the Council's Supplementary Planning Guidance on New Residential Development and the overarching principles of the NPPF.

Highway Safety

Criterion (g) of Policy BE1 seeks to ensure that there is adequate highway visibility for road users and adequate provision of off-street parking and manoeuvring facilities. Policy T5 applies highway design and vehicle parking standards.

An objection has been received that the access to the road is substandard. Access to the site will be from Kingsfield Road via the existing private drive for No. 20. The proposed access is 3 metres in width with a passing place. Three off-street vehicle parking spaces are provided

for each of the proposed dwellings and two for the existing dwelling within the layout and this provision is adequate to meet adopted parking standards. The Director of Environment and Transport (Highways) does not object but, notwithstanding the submitted layout, recommends conditions requiring additional width to the access and the formation of visibility splays at the junction to enable vehicles to pass and in the interests of highway and pedestrian safety together with conditions to secure satisfactory surfacing, parking and turning prior to occupation. Subject to the imposition of these conditions which are reasonable and necessary in this case, notwithstanding the objection received the proposal will not have any adverse impact on highway or pedestrian safety and is acceptable in respect of Policy BE1 (criterion g) and Policy T5 of the adopted Local Plan.

Existing Trees

Two mature Ash trees located on the side boundary with No. 18 are proposed to be removed as part of the development. Whilst they are tall specimens and provide some amenity value, the Tree Officer identifies that they have a limited useful life expectancy and therefore their removal is considered to be acceptable in this case subject to replacement planting which can be secured by condition to meet the requirements of Policies BE1 (criterion e) and NE12 of the adopted Local Plan.

The mature Horse Chestnut tree (protected by a TPO) close to the rear boundary is to be retained and the amended footprint of the proposed dwellings are of sufficient distance to cause no adverse impact on the health or vitality of the tree or its long term retention. However, the Borough Council's Tree Officer considers that as a result of the location of the tree to the south of the proposed dwellings, its height and proximity to their rear elevations and the low level of the branches, the tree has the potential to give rise to overshadowing and amenity issues to the future occupiers. As such he recommends a condition requiring a scheme of tree works including crown lifting and judicious pruning in the interests of the health, safety and visual amenity of the tree and in the interests of the amenity of the future occupiers of the development. He also recommends a condition requiring a Tree Protection Plan for approval prior to any development on the site in order to protect the tree and its root areas during the construction process. These conditions are considered to be reasonable and necessary to make the development acceptable in planning terms. In addition, the amended scheme has relocated the footprint of the dwellings a further 2 metres away from the tree in order to improve amenity for the occupiers.

Objections have been received on the grounds that the existing mature Horse Chestnut tree located towards the rear boundary of the site is having an adverse impact on the structure of existing neighbouring dwellings and that the tree is having an adverse impact on residential amenity as a result of its height, structural condition, spread and encroachment onto adjoining land and the presence of leaf minor moths on the tree. The impact that a tree may or may not be having on either the structure or residential amenity of an existing dwelling outside the application site is not a matter of assessment for this application. Whilst concerns have also been raised in respect of the independence of the tree assessment submitted and that its content is insufficient to enable a decision to be made, the Borough Council's Tree Officer has visited the site and provided independent advice that supports the general findings of the assessment submitted.

The potential effect of the tree on property values raised by objectors are noted however this is not a material planning consideration.

Developer Contributions

Policy REC3 of the adopted Local Plan and the Play and Open Space SPD require new residential development to contribute towards the provision and maintenance of public play

and open space facilities for children. The proposed development is within 400 metres of Kirkby Road Neighbourhood Park which provides such facilities. The request for any developer must be considered alongside the guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

Within the Green Space Strategy 2005-2010, Barwell was found to have sufficient areas of equipped open space (0.06) for its population when compared with the National Playing Fields Standard. However, the quality of the spaces has been considered within the Quality and Accessibility Audit of 2007 which awarded Kirkby Road Neighbourhood Park a quality score of only 75%. The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. The contribution in this case would total £1250.80 (made up of £817.80 provision element and £433 maintenance element) for each additional unit and would be used to provide additional play equipment to improve the quality of the site and to mitigate the impact of the additional dwelling on such facilities.

The size of the additional units proposed would appeal to families and given the proximity of the application site to the open space it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance. The applicant has completed a Unilateral Undertaking to secure the required play and open space contribution.

Sustainable Design

Policy 24 of the Adopted Core Strategy requires new residential development within Barwell to be constructed to a minimum of Code Level 4 of the Code for Sustainable Homes. No information has been submitted to demonstrate that the dwellings can be constructed to achieve Code Level 4 or that the incorporation of such measures would make the development unviable. A condition is therefore considered reasonable and necessary to ensure that the dwellings are constructed in accordance with Policy 24 of the adopted Core Strategy and that a final certificate demonstrating compliance is submitted after first occupation.

Other Matters

A condition requiring a scheme for the provision for waste and recycling storage for the dwellings is not considered to be necessary in this case as both the proposed dwellings and existing dwelling will have adequate garden areas to provide such facilities and the access fronts onto Kirkby Road.

The scale of the development is below the threshold for the provision of affordable housing.

Any subsequent applications for additional housing in the area would have to be assessed on their own merits.

Conclusion

The application site is in a sustainable location within the settlement boundary of Barwell where residential development is acceptable in principle. The layout and design of the proposed dwellings will not have any adverse impact on the character of the surrounding area, the amenities of neighbouring properties, highway safety or the protected tree, will

contribute towards public play and open space facilities and include sustainable design measures. As a result the proposals are in accordance with Policies 3 and 24 of the adopted Core Strategy, Policies Policy BE1 (criteria a, g and i), NE12, T5 and REC3 of the adopted Local Plan together with the overarching principles of the NPPF.

RECOMMENDATION:- Grant subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is a sustainable development, by virtue of the siting, layout, scale and design would complement the character of the surrounding area and would not have any adverse impact on the amenities of the occupiers of neighbouring properties, highway safety or the protected tree,, would contribute to public play and open space facilities and would include sustainable design measures.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 (criteria a, e, g and i), NE12, IMP1, REC3 and T5.

Local Plan 2006-2026: Core Strategy: Policies 3 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.

Conditions:-

- 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 No. 1231/SL at 1:1250 scale; Plot 1 Proposed Floor Plans and Elevations Drg. No. 1231/1 and Plot 2 Proposed Floor Plans and Elevations Drg No 1231/2 received by the local planning authority on 1 May 2014 and Block Plan No. 1231/BP at 1:500 scale and Site Layout Plan Drg. No, 1231/4 received by the local planning authority on 7 August 2014.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

- 5 No development shall commence unless and until a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the dwellings hereby approved can be constructed to a minimum of Code Level 4 has been provided to the local planning authority. In addition, within three months of the first occupation of each of the dwellings hereby approved, a final certificate demonstrating that each dwelling has been constructed to a minimum of Code Level 4 shall be provided to the local planning authority.
- 6 Notwithstanding the submitted details, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-
 - a) means of enclosure
 - b) hard surfacing materials
 - c) measures to be implemented to protect the tree that is subject to a Tree Preservation Order
 - d) planting plans
 - e) written specifications
 - f) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - g) implementation programme.
- 7 Before any development is commenced on the site, including site works of any description, a Tree Protection Plan shall be submitted to and approved in writing by the local planning authority and the trees to the south east of the proposed dwellings shall be securely fenced off by protective barriers to form a construction exclusion zone in accordance with B.S. 5837: Trees in relation to design, demolition and construction. Within the protected areas, the existing ground level shall be neither raised or lowered, and no materials, equipment, machinery or temporary buildings or surplus soil shall be placed or stored thereon. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed.
- 8 No development shall commence on site until a detailed scheme of tree pruning works, to be carried out in accordance with BS3998:2010 Tree Work - Recommendations, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 9 Notwithstanding the approved Site Layout Plan Drg No. 1231/4, before first occupation of either of the dwellings hereby permitted, the access drive shall be constructed to a minimum width of 4.25 metres for at least the first 5 metres behind the highway boundary and shall be so maintained at all times thereafter.
- 10 Notwithstanding the approved Site Layout Plan Drg No. 1231/4, before first occupation of either of the dwellings hereby permitted, 1 metre x 1 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of the access and shall be so maintained at all times thereafter.
- 11 Before first occupation of either of the dwellings hereby permitted, the vehicle parking, passing and turning spaces shall be provided as indicated on the approved Site Layout Plan Drg No. 1231/4. Once provided the access drive, vehicle parking, passing and turning spaces shall remain available for such use at all times thereafter.

- 12 Before first occupation of either of the dwellings hereby permitted the access drive shall be surfaced with a hard bound porous material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained as such at all times thereafter.
- 13 Notwithstanding the submitted plans, the staircase windows on the side elevations of Plot 1 (facing 22 Kingsfield Road) and Plot 2 (facing 18 Kingsfield Road) shall be of a fixed type and fitted with obscure glazing and shall be maintained as such at all times thereafter.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criterion a) of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the development has a satisfactory appearance and in the interests of visual amenity to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan.
- 5 In the interests of the sustainability of the development to accord with Policy 24 of the adopted Local Plan 2006-2026: Core Strategy.
- 6 In the interests of visual amenity, to enhance the appearance of the development and to ensure that the works are carried out within a reasonable time scale to accord with Policies BE1 (criterion e) and NE12 (criteria b, c and d) of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure the existing trees are adequately protected during construction in the interests of the visual amenities of the area to accord with Policies BE1 (criterion b) and Policy NE12 (criterion c) of the adopted Hinckley and Bosworth Local Plan.
- 8 In the interests of the health, safety and amenity value of the trees and the residential amenity of the future occupiers of the development in accordance with Policy NE12 (criterion d) of the adopted Hinckley and Bosworth Local Plan.
- 9 To enable vehicles to pass each other clear of the highway in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 10 In the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 11 To provide adequate off-street parking, passing and turning to serve the development to accord with Policy BE1 (criteria g) and T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 To reduce the possibility of deleterious material (loose stones etc.) being deposited in the highway in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

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

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This planning permission is subject to a legal agreement to provide an off-site public play and open space contribution of £1250.80 for each additional dwelling hereby permitted.
- 6 The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
- 7 Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending upon ground strata permeability. On low-permeability sites, water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet. (See Environment Agency guidance on the permeable surfacing of front gardens).

Contact Officer:- Richard Wright Ext 5894

Item: 02
Reference: 14/00498/FUL
Applicant: Mr Andrew Wakefield
Location: Hope Cottage Main Street Botcheston
Proposal: Demolition of existing dwelling and erection of three dwellings with associated access
Target Date: 21 August 2014

RECOMMENDATION:- Grant subject to S106 obligations and subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as letters of representation have been received from more than 5 separate addresses including the Parish Council.

Application Proposal

The application seeks full planning permission for the demolition of one dwelling and the erection of 3 dwellings. Hope Cottage, the existing dwelling comprises of a detached, two storey rendered property of simplistic design. This is sited towards the western boundary of its large (double width) plot. The property is set just back from the highway, with off road parking provided to its side. Its front boundary is enclosed by a maintained hedge.

The application proposes to sub-divide the plot into three and erect three detached hipped roofed, brick dwellings of almost identical design. In terms of design, the dwellings will incorporate pitched roofed dormers and at ground floor level there will be a hipped roofed, full width canopy projection, with centrally positioned pitched roof porch. Within the principal elevations ground floor bay window are also proposed. To the rear of each dwelling will be a sunroom.

Each dwelling will incorporate an integral single garage and will be set back from the highway by approximately 9 metres, providing off road parking provision and a small garden to their frontage. To the rear, the dwellings will have enclosed gardens. Access to these, will be to the side of the properties.

The layout of the development is reflective of the context, in that the uniform building line along Main Street will be followed. The plot sizes will be slightly smaller than those either side, but all will provide rear garden areas in excess of 275 square metres.

Site and Surrounding Area

As mentioned, the site is currently host to Hope Cottage, which is situated towards the northern corner of the plot. The site comprises residential curtilage and has an area of 1250 square metres. The site is enclosed by a range of boundary treatments, including mature vegetation and brick walls. Mature trees provide the front (northern) boundary and are also scattered throughout the site. The land slopes from west to east. To the rear, the site bounds agricultural land, and to either side are dwellings. The area has a mixed residential character,

with dwellings being of differing age, construction and design; however the dwellings opposite and to the west comprise of modern properties, and that to the east comprises of a more traditional cottage. This said, properties following a uniform building line are detached and occupy large plots.

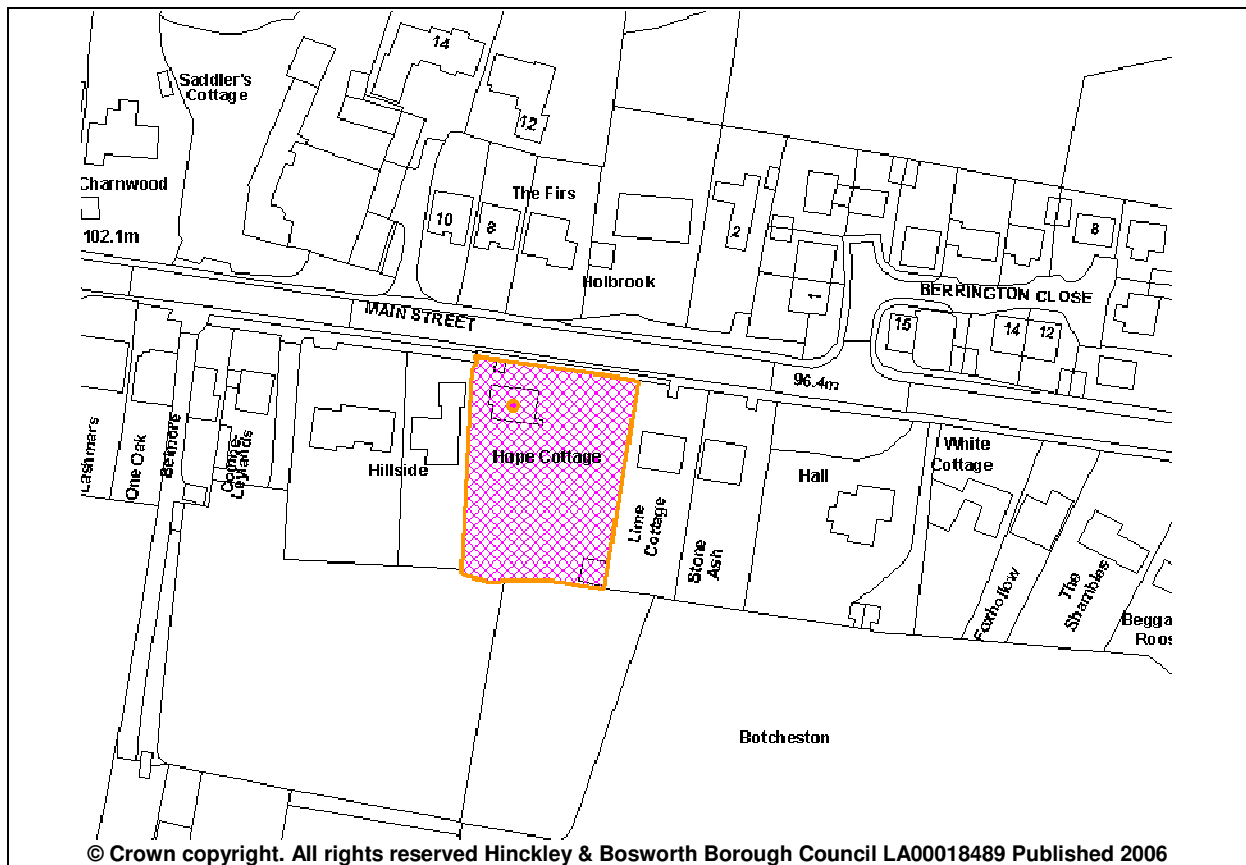
The site is within the settlement boundary of Botcheston.

Technical Documents submitted with the Application

Design and Access Statement
 Biodiversity Report and update

Relevant Planning History:-

02/01196/OUT	Erection of new dwelling	Refused	26.06.03
97/00943/OUT	Erection of one dwelling	Approved	03.12.97



Consultations:-

No objection has been received from:-

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

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)
Directorate of Chief Executive (Ecology).

Desford Parish Council object to the application on the following grounds:-

- a) design will be out of keeping with the character of the area
- b) there is no bin provision
- c) lack of off road parking provision.

Site notice displayed and neighbours notified, five letters of representation received raising the following issues:-

- a) poor design, not in keeping with the character of the area
- b) there are no services within the village which result in over-reliance on the car
- c) the scheme comprises over-development, should be reduced to two dwellings
- d) lack of off road parking provision
- e) some mature trees should be retained
- f) ecology concerns associated with the loss of vegetation
- g) future development of the site could result in loss of light to adjacent dwelling
- h) development should be further set back
- i) overlooking /overshadowing issues
- j) queries over boundary treatment.

Policy:-

National Policy Guidance

National Planning Policy Guidance (NPPG) 2014
National Planning Policy Framework (NPPF) March 2012
Community Infrastructure Levy (CIL) Regulations 2010

Local Plan 2006-2026: Core Strategy 2009

Policy 13: Rural Hamlets
Policy 19: Green Space Provision

Hinckley and Bosworth Local Plan 2001

The site is within the settlement boundary of Botcheston as defined in the adopted Hinckley and Bosworth Local Plan.

Policy BE1: Design and Siting of Development
Policy RES5: Residential Proposals on Unallocated Sites
Policy T5: Highway Design and Vehicle Parking Standards
Policy IMP1: Contributions towards the Provisions of Infrastructure and Facilities
Policy REC3: New Residential Development Outdoor Play Space for Children
Policy NE12: Landscaping

Supplementary Planning Guidance/Documents

New Residential Development (SPG)

Appraisal:-

The main considerations with regards to this application are:-

- a) Principle of Development and 5 yr Housing Land Supply
- b) Relationship with the character of the area
- c) Impacts on residential amenity
- d) Highway safety
- e) Viability, Developer Contributions and Play and Open Space
- f) Ecology.

Principle of Development

The site is located within the settlement boundary of Botcheston as defined in the adopted Local Plan Proposals Map. The concerns raised that there are no services within the village which result in over-reliance on the car have been carefully considered in the context of national and local planning policy and the tests of sustainable development.

Paragraph 12 of the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 14 of the NPPF states that at the heart of the framework is a presumption in favour of sustainable development. There are three core strands underpinning the presumption in favour of sustainable development, which give rise to the need for planning to perform a number of roles. These considerations are economic, social and environmental. These roles are mutually dependant and result in sustainable development. In relation to this scheme, the dimensions are met in the following ways:-

Economic - the local and wider economy would both directly and indirectly benefit through the creation of jobs, the purchasing of materials and through the sale of the end product.

Social - The scheme would contribute towards a housing shortfall in the Borough which would enhance the quality, vibrancy and health of the community.

Environmental -The development will be constructed to the latest building regulations standards so the end scheme will be energy efficient and environmentally sustainable in this respect.

For decision taking this means:-

- a) Approving development proposals that accord with the development plan...
- b) Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework as a whole; or
 - specific policies within the framework indicate that development should be restricted

Local Plan

Policy RES5 of the adopted Local Plan states that on sites not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do

not conflict with the relevant plan policies. This policy can now be given only limited weight since the publication of the NPPF which provides a presumption in favour of sustainable development.

Core Strategy

Policy 13 of the Core Strategy: Rural Hamlets, states that because of the limited services in these hamlets, development will be confined to infill housing. As this scheme comprises of infill housings, in principle the development is in accordance with the intentions of this policy.

Housing Land Supply

Paragraph 47 of the NPPF states that local authorities should identify and update annually a supply of deliverable sites sufficient to provide five years worth of housing against their housing requirements. They should also provide an additional buffer of 5% (moved forward from later in the Plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, authorities should increase the buffer to 20% (moved forward from later in the Plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

As confirmed in April 2014, Hinckley and Bosworth Borough Council do not have a five year supply of deliverable housing sites. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the local authority cannot demonstrate a five year supply of deliverable sites.

The housing supply policies as set out in the Core Strategy, including Policy 13, which relates to development within rural hamlets are thus not considered to be up-to-date. The presumption in favour of sustainable development as set out in Paragraph 14 of the NPPF applies.

Based on the above the scheme is considered to comprise of sustainable development, in accordance with the NPPF and would contribute towards the Boroughs housing shortfall and five year housing land supply. The development is therefore considered to be acceptable in principle subject to all other material considerations being appropriately addressed.

Relationship with the Character of the Area

Criterion (a) of Policy BE1 seeks to ensure that the development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features with the intention of preventing development that is out of keeping with the character of the surrounding area. This is considered to have a high degree of conformity with the NPPF and can therefore be given significant weight in the determination of this application.

The Council's adopted Supplementary Planning Guidance on New Residential Development aims to ensure that new development has regard to the character of the surrounding area, is well integrated into its surroundings, offers a good standard of security and amenity to future residents and protects the amenity of existing occupiers.

Paragraph 53 of the NPPF suggests that local authorities should consider setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area and paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

In terms of the layout of the development, the site has been subdivided into three almost equal plots. The dwellings will follow the established front building line of properties further east and will project marginally further to the rear. Off road parking will be provided to the front, and comprises of two external spaces and one internal space. To ensure that the appearance of the dwellings are softened to their frontage, a parcel of front garden/landscaping is proposed adjacent to the parking areas. Large enclosed gardens are proposed to the rear of each property.

Concerns have been raised that the scheme will result in overdevelopment of the plot and that the development of this garden land will be out of keeping with the character of the area. Although the individual plot size would be smaller than those adjacent, the scheme will provide considerably sized rear gardens (275 metres squared, in comparison to the 80 metres squared as required within the SPG for dwellings of this size) and adequate parking provision would be provided. As such the scheme is not considered to compromise of overdevelopment and instead will comprise the sustainable use of a parcel of land within the settlement boundary.

In respect of character, although the proposal comprises the development of residential curtilage; the size of the existing plot is considerable and is larger than that of most plots within the vicinity. Furthermore as it is situated within the village centre and is surrounded by residential development, its subdivision into three smaller plots is not considered to be contrary to the varied residential character of this settlement.

Concerns have been raised in respect of the design of the dwellings. Design is a subjective issue. The immediate area is characterised by a range of property types including substantial modern dwellings incorporating projecting gables and dormer windows, more traditional, rendered pitched roofed two storey cottages and simplistic appearing properties built during the 1980's/90's.

The design of the dwellings are considered balanced, by virtue of their fenestration alignment and equal proportions and interest has been added through the incorporation of the ground floor canopy, the centrally positioned porch, the bay window and the pitched roofed dormers. The ridge line of the dwellings will increase slightly, reflective of the increase in ground level to the west.

To add an element of variation, the first floor fenestration design of plot two (the central plot) will be slightly different to that of the plots either side (proposing one centrally positioned dormer as oppose to two). Although the dwellings will result in a repetitive form and will be similar in appearance, which is contrary to the dwellings further to the east and west; there are two modern properties of identical design almost opposite the site, and given that the development will be situated within a highly varied street scene, on balance the design solution proposed is not considered to result in severe harm to the street scene and thus the design and layout of the development is considered acceptable.

Queries have been raised in respect of the types of boundary treatment proposed and over the loss of the front hedge. Although the scheme will result in the loss of mature trees along the front boundary of the site, which add to the 'green' character of the area, as the trees are not protected, and their removal is not resisted as the variation in the character of the street scene and the contribution the individual trees make to this, do not warrant a Tree Preservation Order being made. There are a range of front boundary treatments along Main Street, however the most common appears to be maintained hedgerow. Accordingly, to mitigate the loss of the mature trees and habitats which they provide, details of boundary treatment and landscaping will be requested by way of condition.

As discussed above, the proposed development is considered acceptable in terms of design, siting and layout, and will have no detrimental impacts on the character of the area. In this respect the proposal is considered to be in accordance with Policies BE1 (a and b), and paragraphs 53 and 64 of the NPPF.

Impact upon Residential Amenity

Criterion (i) of Policy BE1 of the adopted Local Plan requires that development does not adversely affect the occupiers of neighbouring properties. The NPPF seeks to ensure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

Concerns have been raised within the letters of representation that the proposal will result in overshadowing and loss of light to Lime Cottage.

The dwellings most likely to be impacted upon by the proposal will be Lime Cottage to the east and Foggy Hollow to the west.

Lime Cottage

In respect of impacts on the privacy of this dwelling, there will be two ground floor habitable windows which will face the side elevation of the adjacent dwelling. Although impacts will be primarily mitigated by the boundary treatment, if this were removed at any point in the future, there may be an element of overlooking. As the windows comprise secondary windows to these principle rooms, it is considered reasonable to impose a condition on the application requiring them to be obscurely glazed and fixed. The remaining windows on this side elevation serve non-habitable rooms and thus are not considered to result in any material harm in terms of privacy. The rear elevation of plot 1 will finish approximately 6 metres past the rear elevation of Lime Cottage. However as plot 1 will be set off the common boundary by 1 metre and as the adjacent dwelling is a further two metres from the boundary, the total separation distance between the dwellings will be three metres. This separation distance, combined with the fact that that the majority of the projection will be at ground floor level will ensure that any impacts in terms of overshadowing will not be material.

Foggy Hollow

Plot 3 will be adjacent to this dwelling. There are no habitable room windows in the side elevation of this property thus there will be no impacts in terms of privacy. As plot 3 will be approximately 4 metres from the common boundary and will follow roughly the same front and rear building line, there will be no impacts in terms of loss of light and the proposal will not be overbearing.

It is considered, by virtue of the layout, scale and design of the proposal, that the development will not give rise to any materially adverse impacts on the residential amenity of the surrounding dwellings either by way of overbearing/overshadowing impact or loss of privacy from overlooking. The proposal is therefore in accordance with Policy BE1 (criteria i) of the adopted Local Plan, the Council's Supplementary Planning Guidance on New Residential Development and the overarching principles of the NPPF.

Access and Highway Safety

Criterion (g) of Policy BE1 seeks to ensure that there is adequate highway visibility for road users and adequate provision of off-street parking and manoeuvring facilities. Policy T5 applies highway design and vehicle parking standards. These policies are considered

consistent with the intentions of the NPPF and so are afforded weight in the determination of this application.

Concerns have been raised that the proposal does not provide adequate provision of off road parking.

Three off road parking spaces (including 1 integral space) would be provided for each of the four bed dwellings, along with turning provision to ensure vehicles can leave the site in a forward gear. The existing access which serves Hope Cottage is to serve plot 3, and new accesses are proposed to serve the remaining two plots.

The scheme has been considered by the Director of Environment and Transport (Highways) who recommends approval subject to 5 conditions. The suggested conditions relate to the erection of gates etc, the height of front boundary treatment, site drainage and the provision and surfacing of parking and turning. Of the recommended conditions, four will be imposed fully however a specific condition requiring site drainage is not considered necessary, as this requirement will be incorporated into the site surfacing condition.

Based on the above, and subject to four of the recommended conditions, in terms of highway safety, the proposal is considered to be acceptable and will not result in a highway safety danger due to under provision of parking and is therefore in accordance with Policy BE1 (criterion g) and Policy T5 of the adopted Local Plan.

Play and Open Space

Core Strategy Policy 19 and Saved Local Plan Policy REC3 require new residential development to contribute towards the provision and maintenance of public play and open space facilities for children. Policy REC3 is accompanied by the SPD on Play and Open Space and Green Space Strategy 2005-2010 & Audits of Provision 2007 (Update). In time it is intended that Policy REC3 will be superseded by Core Strategy Policy 19 and the evidence base of the Open Space, Sport & Recreation Facilities Study (2011) once the Green Spaces Delivery Plan has been completed. However, as the evidence base is not yet complete to complement Policy 19, this application is to be determined in accordance with the requirements of Policy REC3, the SPD on Play and Open Space and the Green Space Strategy 2005-2010 & Audits of Provision 2007 (Update).

As the proposed development will result in a net gain of 2 residential units and is within 400 metres of Playing Field a Local Equipped Area of Play the application triggers a requirement for contributions in accordance with Policy REC3 and the Council's SPD on Play and Open Space. The quality of the space has been considered within the Quality and Accessibility Audit update of 2007 which awarded a low quality score of 44.4 %. The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. In this case contributions will be used to improve and maintain an equipped children's play space. The required contribution in this case would be £2501.60 (which comprises of £1635.60 for the provision element and £866.00 for the maintenance element). The size of the units proposed would appeal to families and given the proximity of the application site to this open space it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance. A Unilateral Undertaking is currently under negotiation to secure off-site play and open space financial contributions.

Relationship to Protected Species

The concerns of the impact on wildlife are carefully considered in line with Article 12 of the Habitats Directive which contains a range of prohibitions seeking to protect certain species (European Protected Species). Prohibitions under Article 12(1) include deliberate capture or killing, deliberate disturbance, deliberately taking or destroying the eggs of such an animal, and the deterioration or destruction of a breeding site or resting place of such an animal.

The Directorate of Chief Executive (Ecology) has received an updated ecology survey following initial concerns. Although Directorate of Chief Executive (Ecology) is yet to provide formal comments, the report concludes that bats have used the building (Hope Cottage) as a roost site. The roost appears to constitute a small number of common pipistrelles and it is unlikely that the roost is a maternity roost. The roost did not appear to be in continual use. No other species of bats appeared to be present. Common pipistrelle bats also regularly commute through the site. Accordingly, to ensure these protected species are not adversely impacted upon by the proposal, the report makes various recommendations and suggestions mitigation.

Having considered caselaw, together the identification and known status of the protected species identified in the updated survey, and having considered the relevant facts of the case, it is considered that it is appropriate that planning permission on the application site can be granted and that suitable mitigation and any appropriate licences would be capable of being granted through Natural England legislation and planning conditions. In response to the updated ecology survey the Directorate of Chief Executive (Ecology) has stated that through following the suggested recommendations in the revised report it will be possible to mitigate the impact on the roost of pipistrelle bats. The recommendations should be drafted as planning conditions. Furthermore if the building work does not take place this winter (before March 2015) an updated suite of surveys will be required. This will be added as a note to applicant.

Conclusion

The proposed dwellings would be located within the settlement boundary of Botcheston where there is a presumption in favour of development subject to all other matters being addressed. The development would not give rise to any significant material impacts upon the visual amenity or character of the area, occupiers (and future occupiers) of the neighbouring dwellings or highway safety and no other material impacts have been identified, that would indicate that the proposal is not in compliance with local development plan policies.

Accordingly the application is recommended for approval, subject to the imposition of planning conditions and a legal agreement to secure play and open space contributions. As a result the proposals are considered to be in accordance with Policy 13 of the adopted Core Strategy, Policies BE1 (criteria a, g and i), and RES5, T5, IMP1 and REC3 of the adopted Hinckley and Bosworth Local Plan, the Council's adopted Supplementary Planning Guidance on New Residential Development and the overarching principles of the National Planning Policy Framework and is therefore recommended for approval subject to conditions.

RECOMMENDATION : - That subject to receipt of an acceptable Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide financial contributions towards play and open space the Chief Planning and Development Officer shall be granted delegated powers to granted planning permission subject to the conditions below.

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is within the settlement boundary of Botcheston and by virtue of the siting, design, layout, mass and appearance is considered acceptable and would not have any adverse impact on the amenities of the occupiers of neighbouring properties, on the character of the street scene or highway safety and would contribute to play and open space facilities.

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

Local Plan 2006-2026: Core Strategy: Policy 13.

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.

Conditions:-

- 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 Nos:- 1237/SL, 1237/BP, 1237/ 1 - 4 received by the Local Planning Authority on 26 June 2014.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Before any development commences full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
 - a) proposed finished levels or contours
 - b) means of enclosure/boundary treatment
 - c) hard surfacing materials
 - d) existing trees and hedgerows to be retained and details of their protection
 - e) planting plans
 - f) written specifications
 - g) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - h) implementation programme.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The hard landscaping scheme shall be completed prior to the first occupation of the dwelling hereby approved. 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.

- 6 Prior to the first occupation of the dwelling hereby approved, the car parking and turning facilities shall be provided within the application site in accordance with the details shown on the submitted plan; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall be maintained that way thereafter.
- 7 Before first occupation of the dwelling hereby approved, the access drive and turning and parking spaces shall be surfaces with tarmacadam, concrete or similar hard bound (porous) material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be maintained that way thereafter
- 8 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only.
- 9 No walls planting or fences shall be erected or allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the adjacent carriageway.
- 10 The windows within the eastern elevation of plot 1 as shown on the submitted drawings shall be fitted with obscure glass and be non-opening or top opening and retained this way at all times thereafter.
- 11 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have first been submitted to and approved in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 12 The recommendations and mitigation proposed within the Biodiversity Report dated 29 August 2014 shall be strictly adhered to at all times.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criterion a) of the adopted Hinckley & Bosworth Local Plan 2001.
- 4 To enhance the appearance of the development in accordance with Policies NE12 (criteria a - d) and BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 5 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policies NE12 (criteria c and d) and BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 6 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the

interests of the safety of road users in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan 2001.

- 7 To reduce the possibility of deleterious material being deposited in the highway, in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan 2001.
- 8 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 adopted Hinckley and Bosworth Local Plan 2001.
- 9 To afford adequate visibility at the access to capture for the expected volume of traffic joining the existing highway network and in the interests of general highway safety in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that the development is not detrimental to the privacy and amenity of existing neighbours and/or future occupiers of the proposed residential properties to accord with Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan 2001.
- 11 To ensure the development is compatible with the character and appearance of the existing streetscene, in accordance with the requirements of Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 12 In the interests of ecology and biodiversity in accordance with Paragraph 109 of the National Planning Policy Framework.

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 suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.

Contact Officer:- Eleanor Overton Ext 5680

Item: 03
Reference: 14/00502/FUL
Applicant: Miss Louise Moore
Location: Land At (The Brant Inn) Overdale Avenue Glenfield
Proposal: Erection of 25 dwellings with associated infrastructure (Cross boundary application with Blaby District Council)
Target Date: 25 September 2014

RECOMMENDATION:- Grant subject to S106 obligations and subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a major application.

Application Proposal

Full planning permission is sought for the erection of 25 dwellings and associated works including the formation of two vehicular access points from Overdale Avenue to the south of the site.

The scheme proposes 40% affordable housing with 15 open market dwellings and 10 affordable dwellings.

This is a cross boundary application with Blaby District Council. The majority of the site lies within Hinckley and Bosworth within the parish of Groby with the southern part of the site and two access points within Blaby. As such 20 dwellings are within Hinckley and Bosworth and 5 dwellings within Blaby.

Outline permission was previously granted on the site in 2013 for the demolition of the former public house and erection of 31 dwellings (application ref: 12/01107/OUT).

The applicant has submitted amended plans to improve the design and appearance of the dwellings introducing local design features into the elevations and active frontages to the road. A re-consultation has taken place for 10 days.

The Site and Surrounding Area

The application site is located to the south of the A46, and to the North of Overdale Avenue. The Brant Inn has now been demolished and the site has been levelled. The site measures approximately 1.02 hectares in size.

There are several mature trees within the perimeter of the site, some of which are protected by a Tree Preservation Order (TPO). The site lies with the Rothley Brook Green Wedge and outside the Groby Settlement Boundary.

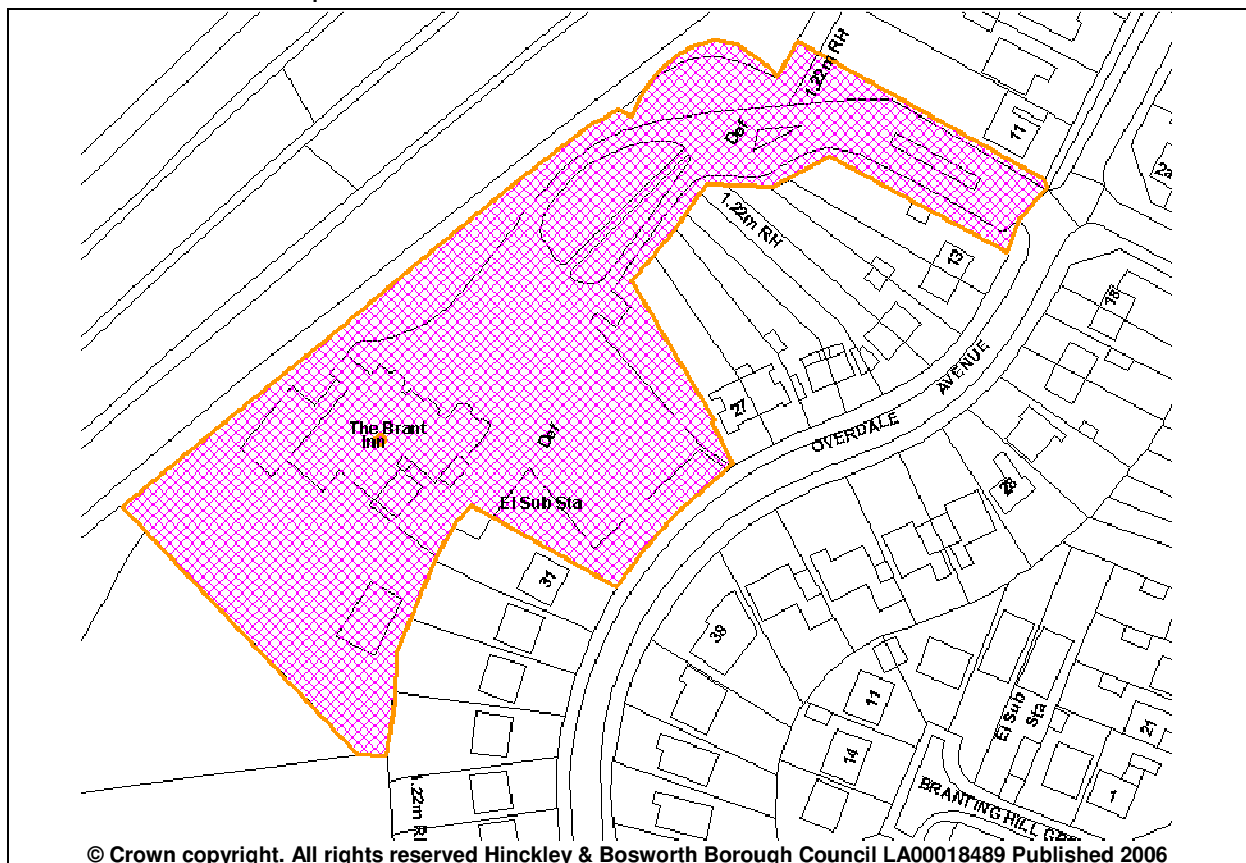
Overdale Avenue is part of a residential development containing a mix of detached and semi-detached two storey and single storey dwellings. The dwellings are all set back from the highway behind a verge.

Technical Documents submitted with application

- Arboricultural Survey
- Archaeological Survey
- Design and Access Statement
- Ecological Appraisal
- Flood Risk Assessment
- Planning Statement
- Transport Assessment
- Landscape and Visual Impact Assessment

Relevant Planning History:-

12/01107/OUT	Demolition of existing building and erection of 31 dwellings (outline)	Approved	04.06.13
78/00001/TPORD	The Leicestershire County Council Groby (Brant Inn)	Tree Preservation Order 1978	



Consultations:-

No objection subject to conditions have been received from:-

Blaby District Council

Environment Agency
Severn Trent Water
Leicestershire County Council (Highways)
Leicestershire County Council (Ecology)
Head of Community Services (Pollution)
Head of Corporate and Scrutiny Services (Tree Officer)
Head of Community Services (Land Drainage)
Head of Business Development and Street Scene Services (Waste Minimisation).

Site notices and a press notice were displayed. No representations have been received.

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) March 2012
The National Planning Practice Guidance (NPPG) 2014
The Community Infrastructure Levy (CIL) Regulations 2010

Hinckley and Bosworth Core Strategy 2009

Policy 7: Key Rural Centres
Policy 8: Key Rural Centres Relating to Leicester
Policy 9: Rothley Brook Meadow Green Wedge
Policy 15: Affordable Housing
Policy 16: Housing Density, Mix and Design
Policy 19: Green Space and Play Provision

Hinckley and Bosworth Local Plan 2001

Policy RES5: Residential Proposals on Unallocated Sites
Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities
Policy REC2: New Residential Development - Outdoor Open Space Provision for Formal Recreation
Policy REC3: New Residential Development - Outdoor Play Space for Children
Policy NE2: Pollution
Policy NE12: Landscaping Schemes
Policy NE14: Surface Water
Policy BE1: Design and Siting of Development
Policy T5: Highway Design and Vehicle Parking Standards

Supplementary Planning Guidance/Documents

New Residential Development (SPG)
Play and Open Space (SPD)
Affordable Housing (SPD)

Other Material Policy Guidance

Site Allocations and Development Management Policies Development Plan Document (Pre-Submission)
Green Wedge Review 2011

Appraisal:-

The main considerations in the determination of this application are:-

- Principle of development
- Overall appearance, scale, design and layout
- Impact on residential amenity
- Highway considerations
- Drainage and flood risk
- Ecology & trees
- Affordable housing
- Infrastructure improvements

Principle of Development

Paragraph 11 - 13 of the National Planning Policy Framework (NPPF) states that the development plan is the starting point for decision taking and that it is a material consideration in determining applications. The development plan in this instance consists of the Core Strategy (2009) and the saved policies of the Local Plan (2001).

Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. This means:-

- Approving development proposals which accord with the development plan without delay, and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless;
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole, or
- Specific policies in the NPPF indicate development should be restricted.

Core Strategy

Policy 7 of the Core Strategy states that in Key Rural Centres housing will be provided within settlement boundaries to provide for a mix of housing.

Policy 8 of the Core Strategy states that through the plan period land will be allocated for a minimum of 110 dwellings to be provided within Groby that could not be met within the existing settlement boundary as defined in the 2001 Local Plan.

Emerging Site Allocations & Development Management Policies Development Plan Document (DPD)

The emerging DPD was published in draft form in January 2014. The consultation period ended in March and responses are being considered before submission to the Secretary of State. Given that this document is emerging and has not been through examination in public the weight that can be afforded to it is limited at this stage.

The Site Allocations DPD identifies land to be allocated for housing in Groby to meet the Core Strategy housing figure identified in Policy 8. Given the existing permission on the site for residential development the site is already allocated as having permission for 22 dwellings.

Green Wedge

The site is located within the Rothley Brook Green Wedge. Policy 9 of the Core Strategy is therefore relevant and seeks to provide recreational uses within easy reach of urban residents and continues to list functions that are acceptable within the Green Wedge, providing the operational development associated with the uses does not damage the function of the Green Wedge. Residential development is not included within this list.

The site is classed as previously developed (brownfield) land. One of the core planning principles as set out in Paragraph 17 of the NPPF is to encourage the effective use of land by reusing land that has been previously developed providing it is not of high environmental value.

The Green Wedge Review (December 2011) will inform a review of the green wedge boundary due to be included as part of the emerging Site Allocations and Development Management Policies Document. The review considered that as this site is previously developed land the site does not perform the role and function of the green wedge and therefore recommends its removal. It is not considered that the proposal would undermine the role and function of the Green Wedge given the site is previously developed land and already has an extant consent.

Housing Land Supply

Paragraph 47 of the NPPF states that local authorities should identify and update annually a supply of deliverable sites sufficient to provide five years worth of housing against their housing requirements. They should also provide an additional buffer of 5% (moved forward from later in the Plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, authorities should increase the buffer to 20% (moved forward from later in the Plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

When the previous application was considered the Council had a five year supply of housing sites. At that time the Council was projecting significant delivery of the planned number of dwellings later in the plan period at the two SUEs at Barwell and Earl Shilton. This is known as the residual method (Liverpool) where early shortfalls in housing delivery are made up later in the plan period. Whereas the alternative method, which the recently published National Planning Practice Guidance (NPPG) advocates, is that where possible the past undersupply of housing should be dealt with within the next five years (the Sedgfield approach). Due the outcome of several recent appeals, and the delays with the delivery of the two SUEs the Council accepts the latest approach as set out in the NPPG that the Sedgfield approach is now the most appropriate method of calculating housing land supply to boost the supply of housing and make up the shortfall in providing deliverable sites.

Therefore as of April 2014, the Borough Council does not have a five year supply of deliverable housing sites.

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the local authority cannot demonstrate a five year supply of deliverable sites.

The housing supply policies as set out in the Core Strategy are not considered to be up-to-date. The presumption in favour of sustainable development as set out in Paragraph 14 of the NPPF therefore applies.

Paragraph 14 states that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. This means:

- Approving development proposals which accord with the development plan without delay, and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless;
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole, or
- Specific policies in the NPPF indicate development should be restricted.

Where the Council does not have a five year housing supply, in accordance with Paragraphs 49 and 14 of the NPPF housing proposals must be considered in the context of the presumption in favour of sustainable development to help significantly boost the supply of housing.

Local Plan

The site lies outside of the current settlement boundary of Groby, as defined on the proposals map of the adopted 2001 Local Plan and is located. Saved Local Plan Policy RES5 therefore applies. This policy seeks to restrict development to within existing settlement boundaries. However, in light of the recent Stanton-under-Bardon appeal decision (ref: APP/K2420/A/13/2200224) Policy RES5 is not considered to be consistent with the intentions of the NPPF when considering residential development, and as such this policy affords only limited weight in consideration of the application.

The Planning Balance

There are three core strands underpinning the presumption in favour of sustainable development as set out within the NPPF which give rise to the need for planning to perform a number of roles. These considerations are economic, social and environmental. Paragraph 8 of the NPPF sets out that these roles should not be undertaken in isolation because they are mutually dependent and that these roles need to be balanced and assessed to determine whether a development is considered to be sustainable. The NPPF clearly defines the three dimensions of sustainable development as follows:-

Economic - It is considered that the local economy would benefit through the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and future maintenance of local infrastructure.

Social - The scheme provides for a mix of both market and affordable housing, which is appraised below, appealing to a wider spectrum within the local market and appealing to groups who may have otherwise been excluded from the locality. There is a range in the type, mix and design of the dwellings. Overall, the scheme would contribute towards a housing shortfall which would enhance the quality, vibrancy and health of the local community.

Environmental - The dwellings proposed would be built to reflect the character of the surrounding area and this point is appraised in further detail below, in addition to the impact of the development upon the countryside and local environment.

Summary

In summary, in accordance with Saved Policy RES5, residential development is not supported outside the settlement boundary. However, these policies are considered to have limited weight and the NPPF states that in the absence of a five year supply of housing sites, housing applications should be considered in the context of the presumption in favour of sustainable development. This is a key material consideration which should be afforded significant weight. It is clear following recent appeal decisions such as those at Three Pots and Workhouse Lane, Burbage and Main Street, Stanton-under-Bardon that the onus of the Council achieving a five year supply of deliverable housing sites applies Borough wide.

In addition as the site has an existing outline consent for residential development it is considered that the principle of development has been established on the site and nothing material has changed since the time this permission was granted. As the site is previously developed land its reuse is supported by the NPPF and it is not considered that this would undermine Policy 8 of the Core Strategy which seeks to protect the defined Green Wedge.

The proposal would help to meet the Council's housing shortfall and would contribute towards achieving a five year supply of housing land. The development is therefore considered to be acceptable in principle subject to all other material considerations being addressed.

Overall Appearance, Scale, Design and Layout

Policy BE1 (criterion a) of the Local Plan requires proposals to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. This is supported by the NPPF which sets out as part of the core planning principles the importance of securing a high quality design and a good standard of amenity.

All private amenity spaces are provided to the rear of the plots and dwellings which occupy prominent positions on corner plots have been carefully considered to ensure that there are no dull or blank frontages and to provide natural surveillance. The external amenity spaces proposed are commensurate in size to the dwellings that they serve, and the differing sizes provide greater choice for future occupiers.

The surrounding area consists generally of detached and semi-detached two storey dwellings along Overdale Avenue. The scheme proposes a mixture of 2, 3 and 4-bed detached and semi detached dwellings at two storey in height which is considered reflective of the existing surrounding dwellings.

In relation to the visual appearance of the scheme, there are a range of house types proposed within the scheme. Amended plans have been submitted to improve the design of individual plot styles. Each house type proposes different materials and design features such as bay windows, canopies, dormers, arched and flat brick headers, brick and stone cills and other brick detailing which adds additional interest to the external appearance of the site as a whole. Some house types include external chimney stacks, to reflect the local vernacular.

In respect of other visual elements there is a mixture of frontage, side and rear parking with single and double garages providing both natural surveillance and attractive streetscenes. The subservient scale, roof design and architectural detailing on the garaging is reflective of the style of the dwellings to which they serve.

Details have not been provided in respect of existing and proposed finished floor levels. Accordingly a condition to this affect is recommended.

Accumulatively as a result of the differing styles, features, materials and sizes it is considered that an attractive scheme would be provided that would meet the requirements as set out in Policy BE1 (criterion a) of the Local Plan.

Housing Mix

Policy 16 of the Core Strategy requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings. In addition this policy requires at least 30 dwellings to the hectare to be achieved within Key Rural Centres unless individual site characteristics indicate otherwise.

The application proposes 25 dwellings on a total site area of 1.02 hectares equating to a net density of 25 dwellings per hectare.

In this case, it is considered the characteristics of the site justify a lower density. The site is located on the edge of the settlement where the surrounding densities are lower. In addition there is a TPO on site which limits the developable area avoiding root protection areas. It is therefore considered that a higher density would be to the detriment of the site and its surroundings.

The proposed mix includes detached and semi-detached dwellings as indicated on the layout plan, of a range of dwelling sizes, including both private market and affordable units which would comply with the requirements of Policy 16.

Hard and Soft Landscaping

In respect of other visual elements there is a mixture of frontage parking, and single and double garages which are subservient in scale and using similar materials to the proposed dwellings. Parking areas and roads are broken up with both hard surfaced and permeable materials-which will be secured by way of condition.

The application shows indicative landscaping details. It is considered necessary to impose a planning condition which secures comprehensive details of all landscaping on site to ensure that it is reflective of the surrounding area. Tree species will be negotiated once a comprehensive landscaping plan has been submitted to the Local Planning Authority, which will be secured by way of a planning condition.

Policy NE12 criterion (d) requires that the application be accompanied by details of the proposed arrangements to ensure that continued maintenance of landscaping. As such it is considered necessary to impose a condition ensuring that the scheme is maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Details have not been provided in respect of the height or design of the brick walls proposed as boundary treatment or of the boundary treatment between plots and therefore a condition is suggested to secure these details for approval in order to ensure that the fencing is appropriate in its appearance.

The proposal is therefore considered to comply with Saved Policies NE12 and BE1 in terms of visual appearance and landscaping.

Affordable Housing

As the scheme is in a rural area, Policy 15 of the adopted Core Strategy indicates that 40% of the dwellings should be for affordable housing. Of these properties, 75% should be for social rent and 25% for intermediate tenure. For this site based on 25 dwellings, the provision should be for 10 affordable units; 7 units for social rent and 3 for intermediate tenure.

As of July 2014 there are 295 waiting list applicants broken down into the following need categories: 138 require 1 bedroom properties, 104 require 2 bedroom properties, 43 require 3 bedroom properties and 10 require 4 or more bedroom properties.

The developer has offered a mix of 4 x 2 bedroom houses and 7 x 3 bedroom houses. The affordable housing has been spread around the site in small clusters which is the preference of social housing providers and is considered to represent the best form in terms of mix.

As the site straddles the boundaries of Groby (Hinckley and Bosworth) and Glenfield (Blaby) parishes a local connections policy to both of these parishes will be included within the S106 Agreement to require applicants in the first instance to have a connection to have a local connection to Groby or Glenfield given that the site could help to meet the affordable housing needs of both districts.

The applicant is proposing to deliver 40% affordable housing which meets the requirement as set out in Policy 15 of the Core Strategy. It is considered that the delivery of 40% affordable housing in this rural area is a key material consideration that weighs favourably in the balance of meeting the social needs of sustainability as supported by the NPPF.

Impact on Residential Amenity

Policy BE1 (criterion i) states that development proposals should not detrimentally impact upon residential amenity.

The residential dwellings most immediately impacted upon as a result of the proposal would be those to the north of Overdale Avenue within the district of Blaby. Due to the separation distances and depth of rear gardens proposed it is not considered that any of the plots located within the Hinckley and Bosworth administrative area would cause an overlooking or overshadowing issue to those dwellings along Overdale Avenue.

The internal arrangements of the plots within the site are not considered to give rise to any significant overbearing, overlooking and overshadowing upon the future occupiers.

In respect of air quality the Head of Community Services (Pollution) has recommended that a condition be imposed requiring details of a Construction Management Plan to ensure air quality is controlled at an appropriate level during construction works.

In summary, the proposal is considered to have minimal impacts upon the amenities of existing and future neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy BE1 (criterion i) of the Local Plan and would not have a significant detrimental impact upon residential amenity.

Noise

Saved Policy BE1 (criterion h) states that planning permission will be granted where the development is not adversely affected by activities in the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development.

A Noise Impact Assessment has been prepared and submitted by the applicant. The Head of Community Services (Pollution) has considered the assessment and has concern over the noise levels to the rear gardens of dwellings proposed to the north of the site from the A46 which sits down an embankment to the north of the site. The assessment recommends that an acoustic fence of at least 2.5 metres is provided as a barrier to the north of the site at the rear of gardens of plots 18 - 25 and plots 4 and 5. In respect of the rear elevation of these properties suitable mitigation in the form of mechanical ventilation would be required. Conditions have therefore been imposed requiring full details of mitigation methods to be submitted to and agreed in writing prior to the commencement of development to ensure that the amenity of future occupiers of those properties is not unduly impacted upon.

It is considered that suitable noise attenuation methods would ensure that any impact is adequately mitigated against in this instance. The proposal is considered to be in accordance with Policy BE1 (criterion h).

Highway Considerations

Saved Policy T5 seeks to ensure that development proposals do not impact upon highway safety, the satisfactory functioning of the local highway network and provide sufficient levels of parking.

The scheme has been considered by the Leicestershire County Council (Highways) who raises no objection. The scheme proposes two accesses. One utilises the existing access to the site sited between No.11 and No.13 Overdale Avenue whilst a new access is sought through the existing car park. Both of the accesses are located within Blaby district.

Sufficient parking is proposed within the development for the size of each dwelling with some properties providing single or double garages which meet the adopted parking standards.

In summary, the Director of Environment and Transport (Highways) has no objection accordingly the scheme is considered to be in accordance with Saved Policy T5 of the Local Plan and overarching intentions of the NPPF.

Drainage and Flood Risk

Saved Policy NE14 of the Local Plan states that development proposals should provide satisfactory surface water and foul water measures.

The application has been accompanied by a Flood Risk Assessment and the scheme has been considered by the Environment Agency, Severn Trent Water and the Head of Community Services (Land Drainage).

No part of the site is located within a flood risk zone.

No objection has been raised subject to a condition requiring drainage plans for the disposal of surface water and foul sewage being submitted prior to the commencement.

In summary, Severn Trent, the Environment Agency and the Head of Community Services (Land Drainage) have no objection to the scheme, subject to the imposition of planning conditions. Accordingly it is considered that the proposed works will be in accordance with Saved Policy NE14 of the Local Plan and overarching intentions of the NPPF.

Ecology & Trees

Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment including securing biodiversity enhancements where possible.

The application has been accompanied by an Ecological Appraisal. LCC Ecology has raised no objection to the proposal. A small population of Great Crested Newts was found some 200 metres from the site boundary which is highlighted in the report. The mitigation techniques as proposed in the ecology report are considered to be acceptable in mitigating any potential harm to newts. This has been conditioned accordingly.

A Tree Preservation Order has been made on the site covering a group of trees dating back to 1978. The applicant has submitted an Arboricultural Appraisal and whilst the majority of trees on site would be retained as part of the layout proposal, some trees would be removed that are of poor value/condition. A suitable replacement will need to be provided to compensate for this loss through the landscaping plan which has been conditioned.

The proposed development is not considered to have any significant detrimental impacts upon ecology or protected species that cannot be successfully mitigated and is therefore in accordance with the guidance as set out within the NPPF.

Developer Contributions

Due to the scale of the proposal developer contributions are required to mitigate the impact of the proposed development upon existing community services and facilities.

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

Play and Open Space

Policy 19 of the Core Strategy and Saved Local Plan Policies REC2 and REC3 seek to deliver open space as part of residential schemes. Policies REC2 and REC3 are accompanied by the SPD on Play and Open Space and Green Space Strategy 2005-2010 & Audits of Provision 2007 (Update).

As the proposed development is for housing a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Saved Policies REC2 and REC3 is required.

Due to the residential element of the development the proposal triggers a requirement for a contribution towards to provision and maintenance of formal and informal play and open space in accordance with Policies REC2 and REC3 supported by the Play and Open Space SPD.

The site is located within 400m of the Stamford Drive/ Sycamore Drive Neighbourhood Park but not within 1km of any formal provision. Under the terms of the Council Policy an off-site contribution can be made towards the Stamford Drive/ Sycamore Drive site however as the site falls outside the catchment for formal provision no request can be justified towards formal provision in this instance.

Within the Green Space Strategy Groby had a deficiency of -0.59 ha per population of equipped play space, a sufficiency of 9.39 of casual informal space and a deficiency of 8.20ha of outdoor sports space. Within the Audits of Provision Stamford Drive/ Sycamore Drive scored 50% which within the 2007 update rose to 57.1%.

There is a deficiency of informal play space within Groby when compared with the National Playing Fields standard. The development is of a type that would result in additional use of open space which would be directly related to the development. It is considered that a request to provide onsite play space is therefore fairly and reasonably justified to meet the requirements of the CIL regulations.

As such the contribution sought equates to £1,250.80 per dwelling (for the consisting of the following elements:-

£817.80 for provision of Children's equipped play space off site
£433.00 towards maintenance of the off-site provision.

It is considered that the play and open space contribution is necessary to make the development acceptable in planning terms, is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this case. Accordingly the scheme would meet the requirements of Policy 19 of the Core Strategy, Saved Policies REC2 and REC3 Local Plan and the Play and Open Space SPD. The play and open space contributions will be secured through the S106 Agreement.

Education

A contribution request has been made from the Local Education Authority based on Department for Education cost multipliers on a formula basis. A contribution of £60,495.05 is sought for primary education provision at Groby Martinshaw Primary School. No contribution is sought for high school education or upper school education as there is currently a surplus of places at the local schools. The total contribution request is £60,495.05. The contribution would be used to accommodate existing capacity issues created by the proposed development. The request is directly, fairly and reasonably related in scale and kind to the development proposed and would be spent within 5 years of receipt of the final payment.

Libraries

A contribution request has been made from Leicestershire County Council Library Services for £1,500 for use of provision and enhancement of library facilities at Glenfield Library and to provide additional lending stock plus audio visual and reference materials to mitigate the impact of the increase in additional users of the library on the local library service arising from the development. It is considered that the contribution request has not demonstrated whether the contribution is necessary and how increasing lending stock would mitigate the impact of the development on the library facility. Having considered CIL legislation, the contribution would not be compliant and is not sought in this instance.

Civic Amenity

No contribution request has been made from Leicestershire County Council Environmental Services in respect of civic amenity contributions.

Transport

A request has been made from Leicestershire County Council Highways for Travel Packs including bus passes at two per dwelling for a six month period to encourage new residents

to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car. The Travel Packs are to be funded by the developer with two application forms for bus passes at £325.00 per pass. It is considered that the request is directly, fairly and reasonably related in scale and kind to the development proposed.

Environmental Impact Assessment

The proposed development has been screened as part of the Environmental Impact Assessment Regulations 2011. The scale of the development proposed would not be a Schedule 1 development but would fall under Schedule 2 as it is considered to be an urban development project where the area of the development would exceed 0.5 hectares. Accordingly the proposal has been assessed under the criteria as set out in Schedule 3. Overall it is not considered that the scale, magnitude and characteristics of the development proposed, including consideration of the environmental sensitivity of the area that the proposal would constitute Environmental Impact Assessment development within the meaning of the 2011 Regulations. As such an Environmental Statement is not required.

Conclusion

The NPPF specifically states at Paragraph 49 that decision takers should consider housing applications in the context of the presumption in favour of sustainable development in the absence of a five year supply of deliverable housing sites.

The NPPF sets out that a balancing exercise must be undertaken in respect of the sustainability of the proposed development. The proposed development would be located in a sustainable location close to existing services and facilities. The delivery of housing would bring economic and social benefits, in providing both market and affordable housing. The level of affordable housing proposed at 40%, meeting the policy requirement, is considered to be a significant material consideration that weighs heavily in the balance. The site currently benefits from extant outline consent for residential development. The redevelopment of the site and bringing a brownfield site back into use is a material consideration that should be afforded significant weight in the balance. As such it is considered that permission should be granted subject to the satisfactory completion of a S106 Agreement and the conditions as set out below.

RECOMMENDATION:- Grant subject to 106 obligations and subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it would be a sustainable development on previously developed land that would contribute to the provision of affordable housing and other infrastructure and services.

Hinckley and Bosworth Local Plan (2001):- Policies RES5, IMP1, REC2, REC3, NE12, NE14, BE1 and T5.

Local Plan 2006 - 2026: Core Strategy (2009):- Policies 7, 8, 9, 15, 16 and 19.

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.

Conditions:-

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 complete accordance with the submitted application details received by the Local Planning Authority on 11 August 2014, as follows:-

Dwg No. 4489-PL-01 Rev B Site Location Plan 1:1250; Dwg No. 842.01 Rev C Planning Site Layout 1:500; Dwg No. GR/D4/05/K Plot 1 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D3/05/B Plot 2 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D3/15/B Plot 3 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D4/05/D Plot 4 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D4/09/D Plot 5 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D3/10/B Plot 6 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D3/11/E Plot 7 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D4/09/K Plot 8 Plans and Elevations 1:50 & 1:100; Dwg No. GR/D4/09/K Plot 9 Plans and Elevations 1:50 & 1:100; Dwg No. GR/S3/10/B Plots 10 & 11 Plans and Elevations 1:50 & 1:100; Dwg No. GR/S2/01/B Plots 12 - 13 & 19 - 20 Plans and Elevations 1:50 & 1:100; Dwg No. GR/S3/04/B Plots 14 - 15 & 23 - 24 Plans and Elevations 1:50 & 1:100; Dwg No. GR/S3/04/D Plots 21 - 22 Plans and Elevations 1:50 & 1:100.

Materials

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

Boundary Treatment

- 4 No development shall commence until elevation details and materials for all boundary treatments are submitted to and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

Levels

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

Landscaping

- 6 Notwithstanding the submitted plans no development shall commence until comprehensive details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details. These details shall include:-
- a) Planting plans
 - b) Written specifications
 - c) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - d) Maintenance schedule
 - e) Implementation programme
 - f) Areas to be grassed
 - g) Treatment of hard surfaced areas (including the footway access from the site to Station Road).
- 7 The approved soft and hard landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Noise

- 8 Prior to the commencement of development a scheme for protecting the proposed dwellings from noise from the A46 to the north of the site including mitigation as necessary shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed to achieve good internal noise levels as detailed in BS8233 and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

Drainage and Flood Risk

- 9 No development approved by this planning permission shall take place until such time as a surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of how the scheme shall be maintained and managed after completion, sustainable drainage techniques or SuDS incorporated into the design, details to show the outflow from the site is limited to the maximum allowable rate, i.e. greenfield site run-off.

The surface water drainage system must deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change (i.e. for the lifetime of the development). Drainage calculations must be included to demonstrate this (e.g. MicroDrainage or similar sewer modelling package calculations which include the necessary attenuation volume).

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- 10 No development shall commence until a scheme for foul drainage has been submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details. The details shall demonstrate that any additional flows discharging into the foul drainage network will not cause deterioration in the discharge quality or operation of any existing storm overflows/combined sewer overflows upstream or downstream on the network, or cause an increase in spill frequency or volume in the foul drainage system.

Construction Management Plan

- 11 No development shall commence until a detailed construction environmental management plan has first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme. The details shall include:-
- a) how, during the site preparation and construction phase of the development, the impact on local residents and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination
 - b) a plan showing how such controls will be monitored
 - c) procedure for the investigation of complaints.

Ecology

- 12 The development hereby permitted shall be carried out in accordance with the recommendations and mitigation as set out in the Ecological Appraisal prepared by FPCR dated May 2013.

Tree Protection

- 13 The development shall be carried out in accordance with the Arboricultural Assessment prepared by FPCR Ltd dated May 2014 and the trees to be retained shall be protected to BS5837:2012.

Reasons :-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3-5 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 6 In the interests of visual amenity, to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 7 To ensure the long term future for all landscaped areas including the future maintenance of these areas in accordance with Policy NE12 of the adopted Hinckley and Bosworth Local Plan 2001.
- 8 To safeguard the amenities of the future occupiers of the proposed dwellings, in the absence of submitted details to accord with Policy BE1 (criterion h) of the adopted Hinckley and Bosworth Local Plan 2001.

- 9 To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, protect the water quality, minimise the risk of pollution and ensure future maintenance of the surface water drainage system to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan 2001 and guidance contained within the National Planning Policy Framework.
 - 10 To protect the water quality and minimise the risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within the National Planning Policy Framework.
 - 11 To ensure the protection of neighbouring residential amenity during construction to accord with Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan 2001.
- 12&13 In the interests of ecology and biodiversity in accordance with Paragraph 109 of the National Planning Policy Framework.

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

Item: 04
Reference: 14/00532/FUL
Applicant: Mr David Wentworth
Location: Halifax Farm Merrylees Road Newbold Heath
Proposal: Installation of 1 No. wind turbine (up to 77 metres in tip height) and associated infrastructure
Target Date: 28 July 2014

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

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

Application Proposal

This application seeks full planning permission for the erection of a single wind turbine. The turbine would measure approximately 47 metres to the hub, 77 metres to the blade tip with a rotor diameter of 54 metres. The turbine would generate 500kW with an annual generating capacity of the turbine approximately 1.6MWs. The turbine would be finished in a light grey colour with a matt finish.

An area of hardstanding is proposed around the turbine to provide a stable base for the turbine components to be erected during construction.

The proposal would generate electricity for use by the applicant's existing agricultural business with any excess electricity produced fed back into the National Grid. Associated cabling and the connection point to the National Grid is proposed to be laid underground in an excavated cable trench.

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 Merrylees Road via the existing farm entrance. Access would then be continued up utilising existing farm tracks which would be upgraded in size and surfaced with hardcore, around the edge of the existing field boundaries to the position of the turbine itself.

The Site and Surrounding Area

The site of the proposed turbine is located within the countryside approximately 800 metres to the south of Halifax Farm. Halifax Farm itself is located approximately 500 metres to the north west of the site of the turbine. The site itself consists of an agricultural field currently set-aside as rough pasture. The turbine is proposed to be sited centrally within the field approximately 50 metres from the field boundary. The site is bounded to the east by mature trees in a wooded belt running north to south.

The site itself is flat and level; however land levels and topography varies within the wider vicinity of the site. The site sits in a dip with land rising to the north, east, west and south. The nearest settlements at Newbold Verdon 1.2km to the south west and Desford located approximately 2km to the south east of the site.

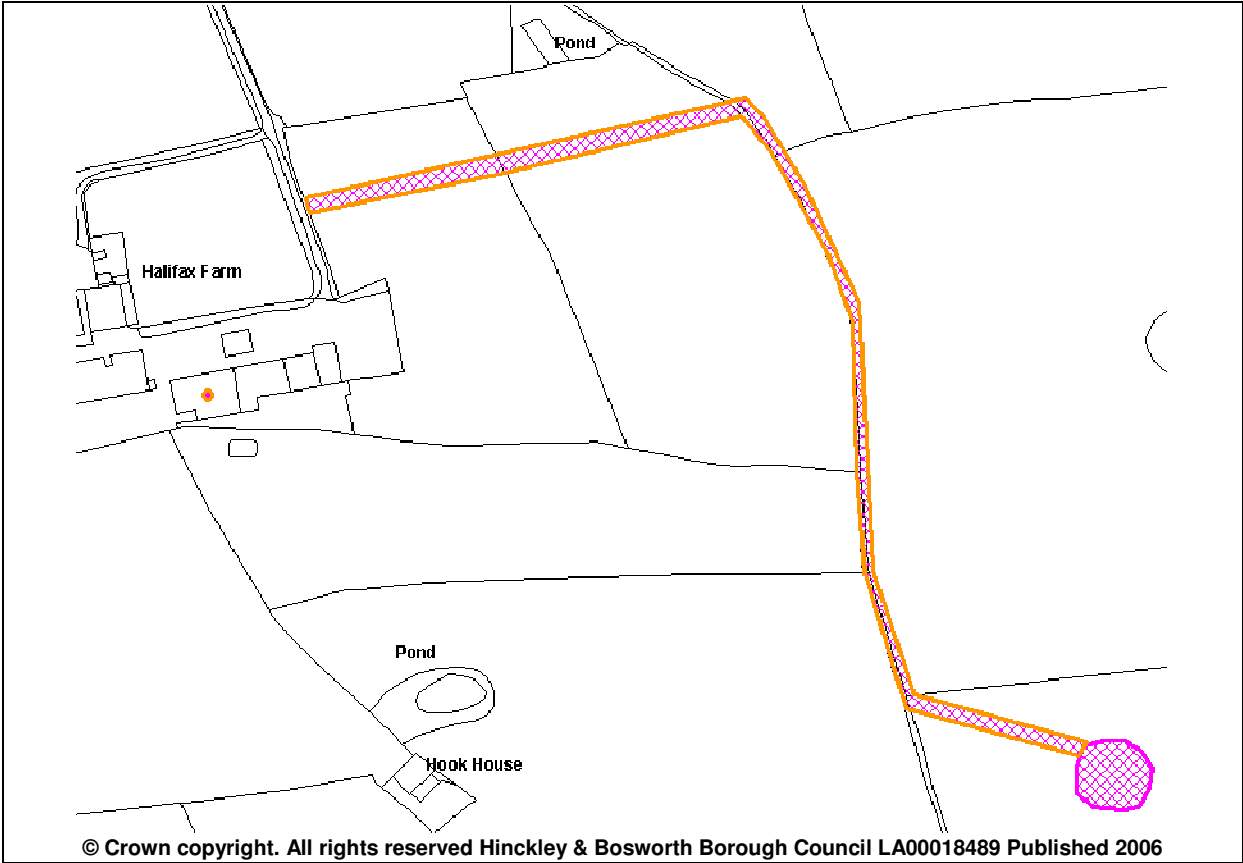
The nearest residential property to the site is Halifax Farm itself. Beyond that the next nearest neighbouring property exists to the north west, Chater Farm, approximately 800 metres away from the proposed turbine. Lindridge Hall Farm sits approximately 770 metres to the south east of the site.

Technical Documents submitted with application:-

- Design and Access Statement
- Cumulative Landscape Visual Impact Assessment
- Transport Statement
- Ecological Appraisal
- Acoustic Noise Impact Report
- Cumulative Noise Impact Report
- Turbine Specification

Relevant Planning History:-

None relevant.



Consultations:-

No objections have been received from:-

Ministry of Defence Safeguarding
NATS Safeguarding
Head of Community Services (Land Drainage)
Leicestershire County Council (Ecology)
Joint Radio Company (on behalf of Western Power Distribution and National Grid Gas Networks)
Leicestershire County Council (Highways)
Barlestone Parish Council.

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

Objections have been received from Bagworth and Thornton Parish Council. Summary of comments received:-

- a) possibility of subsidence being triggered from the turbine weight, height and low frequency vibrations it emits
- b) due to the height of the turbine it would be visible for a distance having a severe impact on the vista from Bagworth, Thornton and neighbouring parishes
- c) views from the National Forest will be blighted
- d) turbine would be out of character with the landscape
- e) Conflicts with the Borough Council's policies in respect of preserving the landscape
- f) the Government has stated that the UK has enough windfarms to meet our green energy targets up to 2020
- g) average wind speeds in Leicestershire are 8mph. Wind turbines do not start generating power until the wind speed reaches 10mph, with 34mph being the maximum generating capacity. Therefore the turbine would generate only 7.7% of its maximum capacity of 1.6MW. This equates to supplying 38.5 houses and not the 500 claimed
- h) no account has been taken of the Stonehaven turbine in terms of the cumulative visual impact.

Site notices were displayed and neighbours notified.

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

- a) if approved would be one of six turbines lying north and east of Newbold Verdon. Each one on its own may not be visually intrusive but as a group they are likely to impact considerably on the landscape
- b) the turbine would impact upon the surrounding area being visible from Bagworth and Thornton
- c) the area is relatively flat and this turbine would have a severe negative effect on the character and appearance of the area
- d) located on the border of the National Forest the turbine would impact upon views into this area
- e) there are potentially land instability issues from previous mine workings and a turbine with its associated stress and vibrations should not be built on land where there are disused mine workings
- f) low frequency of noise from propellers
- g) turbine would be near forest plantation disturbing wildlife

- h) the turbine would only be able to generate electricity for 500 homes if it operated at its maximum capacity with wind speeds of 34mph. As Leicestershire is one of the least windy counties it is only likely to operate at 7.7% capacity
- i) we do not need more turbines as the Government has stated that we have sufficient turbines to meet our green energy targets until 2020.

One letter of support has been received for the proposal.

Policy:-

National Policy Guidance

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

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 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 determination of this application are:-

- principle of development
- relationship to the character and landscape of the area
- cumulative landscape and visual impact
- relationship to neighbouring residential amenity
- ecology
- highway safety
- impacts upon aviation
- electromagnetic interference
- ground stability

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.

The comments of residents are noted with regard to Ministerial Statements, there is no moratorium on on-shore wind turbines with the Secretary of State also approving turbines under recovered call-in applications and appeals.

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 comments from the Parish Council and from neighbouring residents has been noted in respect of the lack of need for wind turbines to meet green energy targets up to 2020 and the points in respect of whether the turbine would generate the amount of energy claimed given local wind speeds. Paragraph 98, as quoted above, is clear on this point which states that local planning authorities should not require applicants to demonstrate need and to approve the application if its impacts are or can be made acceptable.

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 & 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 objections of the Parish Council and residents with regard to the landscape impact and the impact on the National Forest landscape are carefully considered and the cumulative impact of wind turbines (in particular the Stonehaven Turbine) are of relevance and have been given full consideration.

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 medium turbines (40 - 80 metres to the tip). The Renewable Energy Capacity Study describes the location of the site as an area unconstrained for medium scale wind energy development. Accordingly the site is identified as un-constrained for medium scale wind energy development, whilst the same document identifies this scale of wind turbine as medium (in respect of height to blade tip) and small scale (in respect of the 500kW energy generating capacity).

Accordingly this area is characterised as an area of lesser sensitivity, with resilience to change and identified as having low-medium sensitivity for medium sized turbines.

In respect of the topography of the area this varies significantly. The land surrounding the turbine forms a dip with the land rising to the north, east, south and west. Nonetheless the turbine would be visible 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.

It is acknowledged that the introduction of a turbine would bring a change and a degree of impact upon the visual character of the area, however the surrounding area is subject to some existing industrial/urban features such as masts and poles. Therefore as the landscape features other tall, albeit static, structures of an industrial nature, it is not considered that the introduction of a turbine of this scale would appear significantly out of character with its surroundings.

In respect of landscape and visual analysis the application has been accompanied by a Zone of Theoretical Visibility (ZTV) plan to assess the potential visual impact of the proposed turbine and assumes a worst case scenario without trees, hedges and buildings. Areas in which the turbine is theoretically visible is in close proximity to the site and then concentrated

predominantly to the south east and south west of the site, with some interspersed views to the north and north west. In terms of the areas in which the turbine up the maximum blade tip is theoretically visible is inevitably lower and concentrated less to a particular areas. This concurs that the proposal for a single wind turbine in an agricultural landscape would result in the impacts generally being more significant in close proximity to the site and then reducing rapidly with distance.

Comments from local residents are noted in respect of the visual impact of the proposal and that it would be seen from the neighbouring parishes including Bagworth and Thornton. It is accepted that there would be views of the turbine from the parish of Bagworth and Thornton. As discussed above the turbine would be a tall, large prominent structure which would have a degree of landscape impact. The impact would decrease with distance and topography and as such the impact upon the villages of Bagworth and Thornton themselves would be less pronounced than Newbold Verdon and Desford.

In summary, 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 Verdon and Desford to the south west and south east of the site and surrounding roads and from surrounding 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

In 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 cumulative landscape and visual impact assessment showing other turbines within the immediate and wider area for cumulative assessment. The following turbines have either been erected or consented:-

- 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)
- A single turbine at 110 metres to tip height known as Stonehaven at Land East of Bagworth Road, Newbold Heath (application ref: 14/00381/FUL).

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 turbines to the site are a single turbine at land to the north of Merrylees Road approximately 1km to the north of the site, a single turbine at Lindridge Farm approximately 800 metres to the east of the site, a single turbine at Lindridge Hall Farm approximately 1.3km to the south east of the site and a single turbine at Land off Bagworth Road, Newbold Heath approximately 1.5km to the north west. With these particular turbines there would be a cumulative view from certain viewpoints within the immediate landscape. The cumulative impact of the view of these turbines within the immediate area (up to 5km) would be at a moderate or higher level. The large majority of locations within the wider landscape would experience a limited cumulative magnitude of change and a limited cumulative effect.

Consideration has been given to the comments raised by a neighbouring resident in respect of the cumulative impacts of this additional turbine on the area, particularly Newbold Verdon. As discussed above, whilst the turbine would have cumulative effects with other consented turbines in the area the overall impact upon Newbold Verdon is considered to be slight due to the distance, topography and natural features within the landscape.

Whilst turbines have been permitted within the immediate and wider area of the site, it is not considered that this turbine would contribute to a significant detrimental cumulative impact upon the landscape. The existing topography and landscape features would ensure that the turbine is sited in a position that affords the benefit of some screening by hedgerows, trees and natural landscape features. The design and materials of the proposed turbine are considered to be acceptable for the nature of the development within this landscape. As such the proposal is considered to be in accordance with Local Plan Policies BE27 and BE1, the NPPF and the NPPG.

Ecology

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 Leicestershire County Council 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 consists of hedgerows and trees. A belt of trees exists approximately 70 metres to the east of the proposed turbine. As such due to the distance of the proposed turbine from the trees it is not considered that the proposal would have any adverse impacts upon sites of ecological importance or protected species and there are no important habitats in the vicinity.

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. As such due to the scale, height and location of the proposed turbine from the nearest heritage assets it is not considered that the turbine would result in an unacceptable impact upon the significance of these assets or the historical landscape.

Impact on 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 54 metres or 540 metres in distance when multiplied by ten. There are no properties within 540 metres to the north of the turbine that would be affected by shadow flicker, with the exception of Halifax Farm the applicant's dwelling, and therefore it is not considered that an impact would occur.

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

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 Merrylees Road via the existing farm access. To the east of the farm a new section of track proposed across the field where the turbine would be located. The Highway Authority has raised no objection to the proposal. The turbine would be located sufficient distance from the highway to meet the requirements of Policy BE27. 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.

Ground Stability

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 or a floating raft depending on ground conditions. 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. A condition has been imposed requiring details for an investigation and assessment of the ground conditions to be submitted to the local planning authority for approval.

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 14 March 2014. 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 30 metres, does exceed 15 metres. The thresholds within the NPPG state that an "EIA is more likely to be required for commercial development of five or more turbines, or more than 5MW of new generating capacity". The proposed generating capacity of the proposed turbine is 500kW, which would fall well below the identified threshold of 5MW. 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 500kW and as such based on the information provided and the criteria in Schedule 3 it was concluded that the development does not require an Environmental Impact Assessment.

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 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 there would be some cumulative landscape and visual impact arising from the introduction of the turbine with other consented turbines in the area but this impact is not considered unacceptably detrimental.

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.

The proposal would be acceptable from a highway safety and 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 and cumulative impacts of the proposal. The proposal is therefore considered to be in accordance with adopted Local Plan Policies BE1, 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:- Grant subject to 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 a significant detrimental 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, 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.

Conditions:-

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 2 June 2014:-

Site Location Plan 1:7500; Site Plan 1:2500; Block Plan 1:200; Dwg No. 1000900/01 Turbine Elevations 1:200; Dwg No. E439-25-01-A Substation Elevations and Floorplan 1:50 and 1:20.

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.

Construction Method Statement

- 8 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

- 9 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 appropriate visibility splays
 - 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.

Aviation Safeguarding

- 10 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.
- 11 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

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

Noise

- 13 Should the wind turbine be identified as operating at an absolute noise level that exceeds 35 dB expressed as L A90 10min at any existing dwelling, up to on-site wind speeds of 10m/s measured at a height of 10m, the wind turbine shall be taken out of use until such time as maintenance or repair is undertaken sufficient to reduce the absolute noise level of the operating turbine to the satisfaction of the local planning authority.
- 14 Within 28 days from the receipt of a written request from the local planning authority following a complaint to it, the wind turbine operator shall, at its own expense, employ an independent consultant approved in writing by the local planning authority to assess the level of noise emissions from the wind turbine at the complainants property following a procedure to be agreed in writing prior to the commencement of development with the local planning authority. Details of the assessment and its results as to whether a breach of the noise limits in 1 above has been established shall be reported to the local planning authority as soon as the assessment is completed.
- 15 Upon notification in writing from the local planning authority of an established breach of the noise limits in 1 above, the wind turbine operator shall, within 28 days propose a scheme to the local planning authority to mitigate the breach to prevent its future occurrence, including a timetable for its implementation. Following the written approval of the scheme by the local planning authority it shall be activated forthwith and thereafter retained.
- 16 On the written request of the local planning authority, following a complaint to it considered by the local planning authority to relate to regular fluctuation in the turbine noise level (amplitude modulation), the wind farm operator shall at its expense employ an independent consultant approved in writing by the local planning authority to undertake an assessment to ascertain whether amplitude modulation is a contributor to the noise complaint. If the said assessment confirms amplitude modulation to be a contributor to the complaint, the developer shall submit a scheme to mitigate such effect. Following the written approval of the scheme and the timescale for its implementation by the local planning authority the scheme shall be activated forthwith and thereafter retained.

Ground Stability

- 17 Prior to the commencement of development an investigation and assessment shall be carried out for potential former mine workings and/or subsidence that may be present in the area. The findings of this assessment shall be submitted to the local planning authority in writing for approval. The development shall then be carried out in accordance with the recommendations and any mitigation shall be carried out as necessary.

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 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.
- 9 In the interests of residential amenity in accordance with Policies BE1 (criterion i) of the Hinckley & Bosworth Local Plan 2001.
- 10 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.
- 11 In the interests of aviation safeguarding as per Paragraph 16 of the renewable energy and low carbon guidance contained within the NPPG.
- 12 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.
- 13-16 To protect the amenity of residents in accordance with Policy BE1 and BE27 of the Hinckley and Bosworth Local Plan 2001.
- 17 To ensure the development approved is structurally sound and safe in accordance with the National Planning Policy Framework.

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

Item: 05
Reference: 14/00533/FUL
Applicant: Mr Adam Preston
Location: Land Leicester Lane Desford
Proposal: Erection of a temporary farm dwelling (revised proposal)
Target Date: 25 July 2014

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it proposes an agricultural workers dwelling requiring an agricultural appraisal to be undertaken and more than 5 letters of neighbour representation have been received.

This application follows a refused application (13/00055/FUL) for the erection of a permanent agricultural dwelling in association with an agricultural business being carried out at Manor Farm Leicester Lane Desford. This was refused by Planning Committee on 1 May 2013. This was refused on the following grounds:-

In the opinion of the local planning authority, insufficient information has been submitted by the applicant, in the form of comprehensive financial accounts that would allow the local planning authority to fully assess the financial viability of the proposal. The applicant has also failed to demonstrate that adequate agricultural justification exists in terms of its functionality and necessity for the business and therefore the allowance of the proposed development would result in an unwarranted intrusion of residential development in the countryside to the detriment of its intrinsic character and open and undeveloped appearance. The proposal would therefore be contrary to Policy RES12 (criteria a, b and c) of the adopted Hinckley and Bosworth Local Plan and the overarching principles of the National Planning Policy Framework with particular reference to paragraphs 17 and 55.

Application Proposal

This application seeks permission for a temporary agricultural dwelling at Manor Farm, Leicester Lane Desford. The proposed temporary dwelling comprises of a mobile home and will have a footprint of approximately 40ft x 14ft (12m x 4m). This will be sited in a fenced paddock area to the north east of Leicester Lane and to the north west of the existing steel portal framed agricultural buildings. This will be accessed via the existing farm access from Leicester Lane. Landscaped bunds are proposed between the proposed mobile home and the existing agricultural buildings.

Manor Farm comprises a 31 hectare (76.60 acre) parcel of land. In addition to the 31 hectares of owned land, the applicant rents 3 hectares (7.4 acres) of adjoining land on a long term Farm Business Tenancy, making the holding a total of 34 hectares (84 acres) of available secure land.

The 34 hectare unit is currently cropped with combinable arable crops on a rotation of winter wheat, winter barley and oil seed rape.

The rearing enterprise started in February 2013 with 82 head of calves and has increased to 183 in March 2014. It is proposed to increase the numbers to approximately 330 head over the next 12 - 15 months.

It is stated that the existing enterprise has a labour requirement for 1.45 full-time persons, which will increase to 2.46 full-time persons when the cattle numbers are increased to 330 head (projected figures). The applicant currently lives with his family approximately 1 mile from the site.

There are a set of modern portal framed buildings on site (02/00289/GDO, 13/00605/GDO) and a beef rearing enterprise has been established by the applicant. The existing farm buildings comprise an 18m x 24m (60ft x 80ft) grain store to store the arable crops produced on the unit, a 24m x 42m (80ft x 140ft) cattle yard which is currently used to house approximately 200 beef cattle and a further building 18m x 24m (60ft by 80ft) which has recently been constructed (between the two earlier buildings).

The Site and Surrounding Area

The site comprises open agricultural land on the eastern side of the settlement of Desford. The site occupies a relatively isolated position on the outskirts of the village. Bosworth Academy is the closest development, this is on the opposite side of the road and to the south west. The plot that will accommodate the proposed dwelling is sited to the northwest of the existing farm buildings. The existing access to the farmstead is off Leicester Lane. Native hedgerow runs along the south western boundary of the land. The site benefits from open views of the countryside and is highly visible from both short and long distance viewpoints.

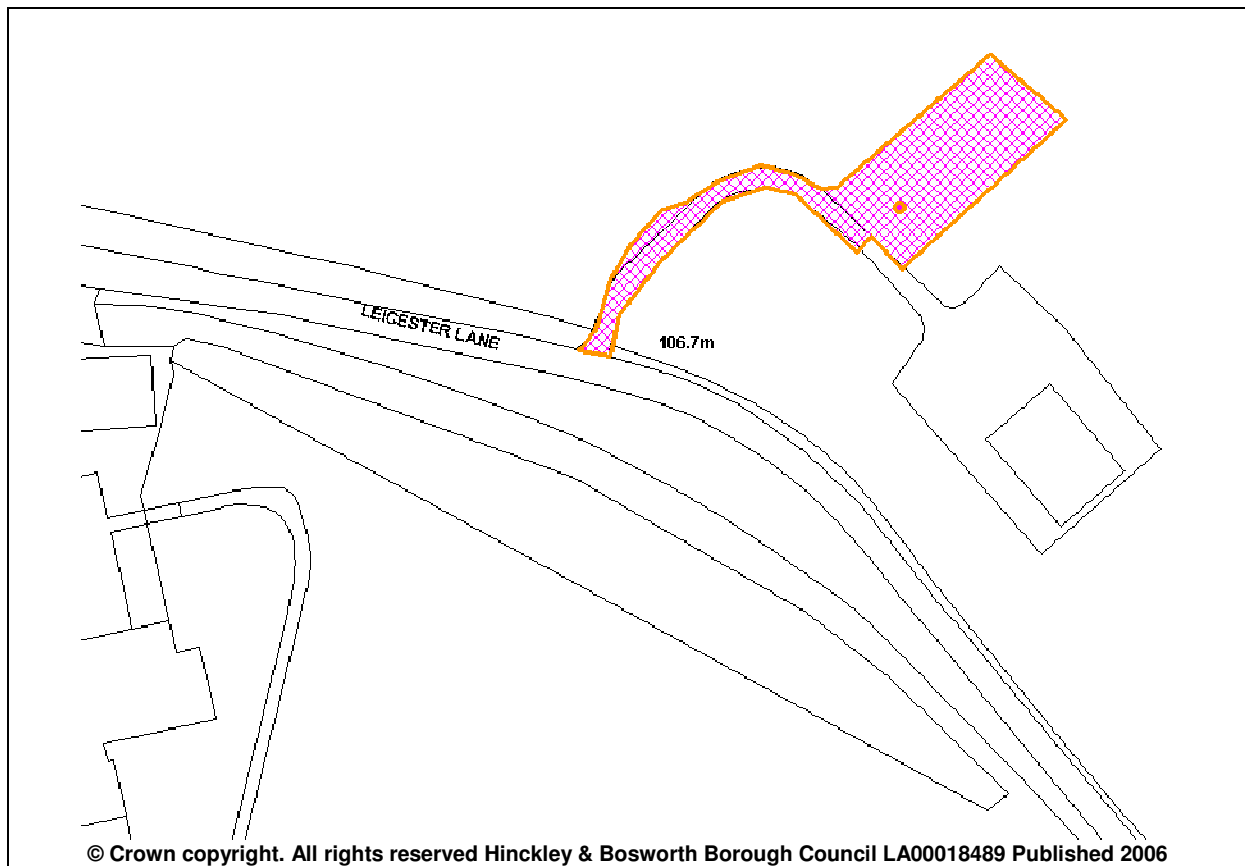
The buildings at Manor Farm comprise a grain store (approximately 18m x 24m), a general purpose building (approximately 18m x 24m) and an intensive beef rearing unit (approximately 42m x 24m). The enterprise is approximately 34 hectares, 3 hectares of which is rented on a long term business tenancy. The remainder is owned freehold. The farm machinery that is stored on site is owned by the partnership.

Technical Documents submitted with application

Design and Access Statement
Agricultural Appraisal

Relevant Planning History:-

13/00605/GDO	A portal framed agricultural link Building to fit between the two existing agricultural buildings	(PD)	30.05.13
02/00289/GDO	Erection of agricultural grain store	(PD)	26.03.02



Consultations:-

No objection has been received from:-

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

No objections subject to conditions have been received from Director of Environment and Transport (Highways).

Desford Parish Council do not object to the scheme, but have suggested that if approved, additional screening of the site will be required.

Site notice displayed and neighbours notified, 17 letters of representation received raising the following issues/concerns:-

- a) concerns that the development will set a precedent for future development of a larger dwelling on site
- b) concerns that the development will result in increased traffic
- c) the development will result in degradation of the road surfaces and will result in more mud and debris on road
- d) increased heavy machinery on a country lane and through the village centre which is not acceptable in this location and will result in further accidents
- e) the existing traffic calming measures are not working
- f) who will pay for the additional maintenance of the road? which other public services will miss out as a result of this?
- g) the applicant has applied for similar proposals elsewhere in the village
- h) this is further development of greenbelt land

- i) there has been a lack of public consultation in respect of the application
- j) the applicant is part of Preston's Agricultural Contractors
- k) the gates to the existing access shall be re-positioned further back from the highway
- l) too many HGV'S already travelling through the village.

Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) March 2012

Local Plan 2006-2026: Core Strategy 2009

Policy 7: Key Rural Centres

Policy 8: Key Rural Centres Relating to Leicester

Hinckley and Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development

Policy RES12: New Agricultural Dwellings

Policy NE2: Pollution

Policy NE5: Development in the Countryside

Policy NE12: Landscaping Schemes

Policy NE14: Protection of Surface Waters and Groundwater Quality

Policy T5: Highway Design and Vehicle Parking Standards

Supplementary Planning Documents/Guidance

New Residential Development (SPG)

Appraisal:-

The main considerations in determination of this application are:-

- Principle of development
- Whether the previous reason for refusal has been overcome
- Relationship with the character of the surrounding countryside
- Highway Safety
- Other Issues

Principle of Development

The National Planning Policy Framework (NPPF) provides a presumption in favour of sustainable development. Paragraph 55 of the NPPF states that isolated new homes in the countryside should be avoided unless special circumstances exist, an example of which is the essential need for a rural worker to live permanently at or near their place of work in the countryside. Paragraph 28 of the NPPF supports sustainable economic growth in rural areas and the development of agricultural and other land based businesses.

Whilst only limited weight can be afforded to Saved Policy NE5 of the adopted Local Plan following the release of the NPPF, whilst seeking to safeguard the character and appearance of the countryside the policy acknowledges the need to accommodate development that is important to the local economy that cannot be provided within or adjacent to an existing settlement. Saved Policy RES12 of the adopted Local Plan is considered to have a high

degree of conformity with the NPPF and states that in assessing planning applications for dwellings required to accommodate a person employed in agriculture, consideration will be given to: the nature of the holding and the necessity for the person to live on site, having regard to the security and efficient operation of the holding; the viability of the holding to sustain the worker in full time employment; and the availability of suitable alternative accommodation in the local housing market.

Whilst the policy framework provides for the development of agricultural workers dwellings in the countryside in principle, it is clear that this is an exception to the general restraint on new residential development in the countryside that has remained a strong and consistent element of national planning policy and should be subject to special justification being demonstrated in respect of the essential functional requirements of the enterprise, the lack of alternative accommodation that would fulfil that requirement and the sustainability of the development.

The NPPF in paragraph 7 states that there are three dimensions to sustainable development (social, environmental and economic). The economic role is particularly relevant to the provision of agricultural worker's accommodation as the need for it must derive from the requirement of the farm business and not from the personal aspirations of the individuals concerned. The policy exception reflects support for agriculture as an economic activity; therefore, to allow such accommodation where a farming enterprise was not economically sustainable would not be justified.

This application is accompanied by an agricultural appraisal; this seeks to justify the functional requirements of the enterprise and its financial stability. The content of this report has been independently assessed by the Borough Council's Agricultural Consultant.

The agricultural enterprise in question has been assessed against both local and national policy guidance and regard has been had to recent appeal decisions.

Functional Test:- Is the agricultural holding of a nature that requires a person to live on the site, having regard to the security and efficient operation of the holding?

It has been clarified that Manor Farm is run as a totally separate business to Prestons agricultural contract hire at Forest Hill Farm. Thus this appraisal is based solely on the requirements of the cattle, arable operations and land at Manor Farm. The beef enterprise involves "rearing calves to produce intensively fed beef cattle" and is stocked with "approximately 180 - 200 head of cattle from young calves to 12 month old finished cattle, 50% of which are bulls". In the past 12 month period stock numbers have increased from 82 to 183. The agricultural appraisal submitted with the application states that there is an essential need for a person to be available on site at most times and that the existing enterprise has a labour requirement for 1.45. It continues that the labour requirement will increase to 2.46 full-time persons when the beef unit is fully stocked. The Borough Council's Agricultural Consultant is satisfied that the labour requirement suggested is an accurate reflection of the needs of the enterprise.

The Consultant continues that having an appropriate person (s) resident on site or close by ensures that treatment of illness, any emergencies, thefts, vandalism or fire issues can be attended to promptly. This includes matters in relation to animal welfare, youngstock management, bio-security of youngstock and vulnerability to contamination and diseases. It is also important that factors concerning discomfort, intrusions, potential distress, the state of bedding and any untoward behaviour are able to be attended to promptly and also that regular and routine checking of stock for such issues can be facilitated.

It is considered that the business has shown a commitment to establish an intensive beef enterprise, and that there is an essential need for a worker to live close by.

Financial Test:- Is the holding sufficiently viable to sustain any additional full time worker in full time employment?

The labour requirement of the proposed livestock enterprise, as identified within the agricultural appraisal submitted is 1.45 full-time equivalents, rising to 2.46 full-time persons.

There are no business accounts for Manor Farm available to view as the enterprise is relatively new. However projected financial figures have been included within the agricultural appraisal.

The beef enterprise is run on a contract between Manor Farm and Forest Hill Farm. Calves are brought onto the farm at 7-10 days old, reared on a milk substitute and finished at approximately 12 to 14 months on an intensive beef system. The bull calves are left as bulls and kept separate from the heifers within the existing buildings.

The applicant received a monthly rearing fee per head, per month, with the owners providing all the feed, bedding, vet and medicines etc. The applicant provides all labour, housing, water and machinery to operate the rearing business. This is a similar type of rearing agreement to those on other farms and fee per head is considered reasonable. Further, the size of the buildings on site are large enough to accommodate any increase in stock up to the proposed target of 33 head, and that this investment in the land and farm buildings shows evidence of intent and ability to develop the enterprise concerned.

This application is being assessed on the basis of a temporary dwelling. As such there is the need for the enterprise to demonstrate it can expand and develop as proposed and provide evidence to show that the enterprise is financially viable and sustainable in the long term and will sustain the cost of a permanent dwelling after 3 years. In light of the figures contained within the agricultural appraisal, it is agreed that financial sustainability has been suitably demonstrated and that the enterprise at its target number of animals would be a viable one.

The independent agricultural consultant has reviewed the business accounts provided (during the submission of the previous application 13/00966/FUL), which cover a period from 2009 to 2012. During this time the business made an average loss of £2,661.50 per annum and had an average net worth of -£31,467.50 per annum. This said, the forecasts associated with the expansion of the livestock (veal calf enterprise) as illustrated within the agricultural appraisal submitted with the current application are considered to be sound and realistic. The consultant continues that these forecast a surplus of £8,385, after the cost of labour for 1.26 full-time equivalents (of £17,785) has been taken into account. Based on this (proposed veal calf enterprise), it could be concluded that the holding could be sufficiently viable to sustain any additional worker in full time employment.

Availability of Alternative Accommodation:- What is the availability of alternative accommodation in the local housing market?

The proposed dwelling at Manor Farm would be in the form of a two bedroomed mobile home of approximately 48m².

The applicant and his family currently live approximately one mile distance from Manor Farm at the far end of the village. The agricultural appraisal submitted with the application states that a dwelling in the village or away from the site would be unable to fulfil the essential/functional needs of the enterprise. An internet search conducted in June 2014 indicated a number of properties for sale within a one mile radius of the Manor Farm site

from £168,000 to £1.5 million. However these properties would be no closer to the site than the applicant's existing dwelling.

In this respect it is concluded that the welfare and supervisory management of livestock in this instance requires supervision on site or close by.

When considering the wording of paragraph 55 of the NPPF, which makes reference to the "essential need for a rural worker to live permanently at or near their place of work in the countryside" and the wording of saved policy RES12, which states "the agricultural holding 'must' be of a nature that requires a person to live on the site and 'must' be sufficiently viable to sustain any additional worker in full time employment; in accordance with the above discussion, the projected livestock numbers and business forecasts that accompany the application illustrate that in the future, the enterprise could sustain a permanent dwelling, but presently this "essential" need is not considered to have been met. The temporary mobile home proposed by this application offers a solution for the next three years whilst the business viability and future sustainability are being achieved.

Previous reason for refusal

The previous planning application for a permanent agricultural workers dwelling was refused on the following grounds:-

In the opinion of the local planning authority, insufficient information has been submitted by the applicant, in the form of comprehensive financial accounts that would allow the local planning authority to fully assess the financial viability of the proposal. The applicant has also failed to demonstrate that adequate agricultural justification exists in terms of its functionality and necessity for the business and therefore the allowance of the proposed development would result in an unwarranted intrusion of residential development in the countryside to the detriment of its intrinsic character and open and undeveloped appearance. The proposal would therefore be contrary to Policy RES12 (criteria a, b and c) of the adopted Hinckley and Bosworth Local Plan and the overarching principles of the National Planning Policy Framework with particular reference to paragraphs 17 and 55.

Based on the above discussion it is considered that adequate information has been received to confirm the functional need of the enterprise and that the financial forecasts illustrate that the enterprise is planned on a financially sustainable basis. Accordingly, a temporary agricultural dwelling in association with the enterprise is considered justifiable and necessary to facilitate the proposed expansion. This would allow time for the enterprise to develop in accordance with the projections outlined within the business forecast.

The development of a temporary agricultural dwelling (as proposed) is considered to be in accordance with the principles of Saved Policy RES12 (criteria a and b) of the adopted Local Plan and paragraph 55 of the NPPF. Therefore, in principle the development is considered acceptable and the previous reason for refusal has been overcome.

Siting, Design and Impact on Landscape

The NPPF in paragraphs 56 and 58 identify good design as a key aspect of sustainable development and seeks to ensure that development is visually attractive as a result of good architecture and appropriate landscaping. The design criteria i, ii and iii of Saved Policy NE5 require that development in the countryside does not have an adverse impact on the character or appearance of the landscape, is in keeping with the scale and character of existing buildings and general surroundings, is effectively screened by landscaping. Saved Policy BE1 (criteria a, c and e) require that development complements or enhances the character of the surrounding area with regard to scale, layout, design, materials and

architectural features; has regard to the safety and security of individuals and property; and incorporates landscaping to a high standard.

In terms of its siting, the proposed temporary dwelling will be situated at the head of the access drive, to the north east of Leicester Lane and to the north west of the existing agricultural buildings. The site is relatively exposed, which will render the temporary dwelling visible from both Station Road and Leicester Lane. The siting of the proposal has been chosen due to its proximity to the buildings and the associated functional benefits this will bring. Although the building will be visible, by virtue of its set back from the highway, it will not be dominant in the street scene, and it will not appear visually isolated within its setting due to its proximity to the existing agricultural buildings. Accordingly, the proposed siting of the dwelling is not considered to have any materially adverse impacts on the character, openness or visual amenity of the surrounding landscape.

The design proposed is simplistic and utilitarian and offers little in the way of architectural features or character. However this is temporary dwelling, and thus it is not considered either reasonable or necessary to require a dwelling of exceptional design. The proposal is considered fit to serve its functional purpose and will not result in any long terms impacts on the character of the surrounding landscape.

Accordingly, on balance, although the design solution proposed would not be acceptable for a permanent dwelling, given that this application is for the siting of a temporary dwelling and given that it will be well related to the existing agricultural buildings, the dwelling will not appear prominent within the surrounding landscape or street scene and is therefore not considered to result in any materially adverse impacts in terms of the character of the surrounding countryside or landscape which would warrant refusal of the application on such grounds. Furthermore, due to its siting the dwelling would be well related to the existing access and agricultural buildings. The proposal is therefore considered to be in accordance with Saved Policies NE5 (criteria i, ii and iii) and BE1 (criteria a and c) of the adopted Local Plan together with the overarching principles of the NPPF.

Residential Amenity

Saved Policy BE1 (criterion i) requires that development does not adversely affect the occupiers of neighbouring properties.

The dwelling would occupy a relatively isolated position, with the closest dwellings being those on Fuller Close to the west. Given the separation distance between the proposal and these dwellings, the proposal is not considered to give rise to any impacts in terms of residential amenity. The proposal is therefore in accordance with Saved Policy BE1 (criterion i) of the adopted Local Plan.

Impact on Highway Safety

Saved Policies NE5 (criterion iv), BE1 (criterion g) and T5 of the adopted Local Plan require development to provide adequate visibility for road users and adequate provision for off-street parking and turning facilities for residents and visitors so as not to have any adverse impact on highway safety.

Concerns have been raised within the letters of neighbour representation stating that the proposal will result in further highway safety issues, more vehicle accidents involving farm machinery, more mud and debris on the highway and pedestrian safety issues.

As this application is for the erection of a temporary agricultural workers dwelling, the vehicle movements specifically associated with this will be marginal. The principle of the use of this

land for agricultural purposes and indeed an intensive beef rearing unit has previously been established. Accordingly, although the proposal will indirectly facilitate the development of the enterprise, given the size of the buildings approved, the enterprise could develop in isolation without a dwelling and generate the same number of vehicle movements. Accordingly, as the proposal in question will not directly result in a material increase in traffic movements, it can not be argued that the proposal would result in any materially significant highway safety issue.

Queries have also been raised in respect of who will pay for the additional maintenance of the highway. This is not a material planning consideration and will have no bearing on the decision made in this case, however all vehicle which use the highway are subject to vehicle tax and thus this goes towards the maintenance of the highway.

The dwelling would be accessed via the existing farm access, off Leicester Lane. This comprises a double width (approx 10 metres) gated access and a hard surfaced driveway. The Director of Environment and Transport (Highways) has considered the proposal and has recommended approval subject to 5 conditions. These relate to the provision of a pedestrian crossing facility, the provision and surfacing of parking, surfacing of the access drive, siting of gates etc and the display of signage. Given that the application proposes a temporary dwelling, the suggested conditions have been appraised to ensue they are relevant and necessary to make the development acceptable. Of the recommended conditions, conditions 3 and 4 are considered reasonable and necessary. These relate to surfacing of the access and the siting of gates etc. Accordingly, they will be imposed.

There is adequate vehicle parking and turning space on the site.

Accordingly in terms of highway safety, the proposal is not considered to result in any further material impacts on highway grounds. The proposal is therefore in accordance with Saved Policies NE5 (criterion iv), BE1 (criterion g) and T5 of the adopted Local Plan.

Other Issues

In this case, there are no public children's play areas within 400 metres of the proposed dwelling therefore there is no justification/requirement for any developer contributions towards the provision or future maintenance of such facilities.

Issues raised within the letters of neighbour representation not considered elsewhere in the report:-

Concerns that the development will set a precedent for future development of a larger dwelling on site. The purpose of this application is to test the functional and financial viability of the enterprise under consideration. If after the three year temporary period the enterprise is considered viable, the opportunity will then arise for a permanent dwelling to be applied for.

It has been stated that the existing traffic calming measure are not working. This is not a material planning consideration and will not have an impact on the outcome of this application.

It has been suggested that there are too many HGV'S already travelling through the village. This proposal will not result in any HGV movements and is therefore not a consideration in the determination of this application.

Concerns have been raised that the applicant has applied for similar proposals elsewhere in the village. The Local Planning Authority is unable to control the submission of planning applications and each application received will be determined on its individual merits.

It has been stated that this is further development of greenbelt land. There is no greenbelt land within the Borough. The proposal would involve the development of greenfield land. However impacts upon the character of this have been assessed in the main body of the report.

It has been suggested that there has been a lack of public consultation in respect of the application. The application has been consulted in accordance with the regulations as stated within the Development Management Procedure Order.

Conclusion

Whilst the national and local planning policy framework provides for accommodation for agricultural workers in the countryside in principle, it is clear that this should be subject to special justification being demonstrated in respect of the essential functional requirements of the enterprise, the lack of alternative accommodation that would fulfil that requirement and the economic sustainability/viability of the development. In this case, the independent agricultural appraisal report concludes that there will be a functional requirement generated by the enterprise, which would be best served by an on site dwelling and that based on the submitted financial projections, the proposal should also be financially sustainable at the end of the temporary period. Accordingly, the proposed temporary dwelling is considered to be justified and will allow the enterprise to expand on the planned basis. The proposal is therefore in accordance with Saved Policies RES12 (criteria a, b and c) of the adopted Local Plan together with the overarching principles of the NPPF, with particular reference to paragraph 55, and is recommended for approval subject to conditions.

RECOMMENDATION:- Grant subject to 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 is considered to comprise of sustainable development which would allow the expansion of a proposed agricultural enterprise in order to meet the financial and functional tests as outlined within paragraph 55 of the NPPF. Furthermore, by virtue of its siting and design there are considered to be no arising adverse impacts on either the character of the surrounding countryside or landscape, residential amenity or highway safety.

Hinckley and Bosworth Local Plan (2001):- Policies BE1 (a and i), RES12, NE5 and T5.

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.

Conditions:-

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Refs:- 'Proposed Temporary Dwelling' Scale 1:50 plan and elevations, Site Plan Scale 1:1250 received by the Local Planning Authority on 17 February 2014.

- 2 Within two weeks of the first occupation of the dwelling hereby approved, evidence shall be provided to the Local Planning Authority stating the date of the dwellings siting. The dwelling shall be removed from the site 3 years from this date and the land restored to its former condition on or before 4 months from this date, in accordance with a scheme of work which is to be submitted to and approved in writing by the Local Planning Authority.
- 3 Before first occupation of the dwelling, the access drive shall be surfaced with tarmacadam, concrete or similar hard bound porous material (not loose aggregate) for a distance of 7 metres behind the highway boundary and shall be so maintained at all times.
- 4 Notwithstanding the need for planning permission or other approvals, if any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 7 metres behind the highway boundary and shall be hung as to open inwards only.

Reasons:-

- 1 For the avoidance of doubt and in the interests of proper planning
- 2 The permanent siting of an unjustified dwelling in this location would constitute of an unsustainable form of development, contrary to the intensions of paragraph 55 of the NPPF.
- 3 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.). In accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 4 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 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: 06
Reference: 14/00572/CONDIT
Applicant: Curtis Hall Ltd
Location: Nailstone Colliery Wood Road Nailstone
Proposal: Variation of condition numbers: 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 16, 17, 21 and 24 of 10/00851/EXT to allow phasing of the development
Target Date: 11 September 2014

RECOMMENDATION:- Grant subject to S106 obligations and subject to conditions.

Introduction:-

This Section 73 application seeks to vary conditions 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, 21 and 24 of planning permission 10/00851/EXT.

Planning permission 10/00851/EXT granted an extension of time for application 06/00980/OUT for the redevelopment of Nailstone Colliery to include storage and distribution uses (Class B8), small business units (Classes B1(c), B2 and B8), a country park, landscaping, open space and the formation of a new access. This application was in outline form with access.

Due to the recession and lack of demand for commercial employment uses the redevelopment of the site has stalled. On the basis of an upturn in the economic climate a new developer, Curtis Hall Ltd, has secured an option to develop the site and remains committed to providing approximately 100,000 square metres of commercial storage and distribution floorspace. The economic uplift in the site value will enable the regeneration of the colliery and creation of the country park.

In order to deliver such a complex regeneration project, the applicant is seeking to vary conditions imposed on the original permission granted by the Secretary of State and subsequent extension of time approved by the Council. These variations seek to allow phasing of the development. A revised masterplan is being prepared as part of a forthcoming reserved matters submission. It is the applicant's intention to deliver the country park in phases linked to the development of each phase of the commercial uses.

The Site and Surrounding Area

Nailstone Colliery is a former coal mine, previously owned and managed by the National Coal Board. The colliery first began extracting coal in the late 1890s and closed in the 1980s. The current site is approximately 143 hectares in size and comprises exposed spoil heaps to the north of the site, large areas of hardstanding associated with the previous coal washing facility, balancing lagoons to the centre of the site to manage run-off and land to the south of the site which is currently used for agriculture. To the west of the site is a belt of trees with ancient woodland status. An additional strip of agricultural land exists to the east of the site adjacent to Wood Road which forms part of the site area.

The site sits approximately 1km to the north east of the village of Nailstone and approximately 1km to west of the village of Bagworth. The northern part of the site sits close to the village of Battram, in the district of North West Leicestershire. As such this is a cross-

boundary application and an identical application has been submitted to North West Leicestershire District Council.

Technical Documents submitted with application

The initial application 06/00980/OUT was supported by an Environmental Statement, which included a Planning Statement, Design and Access Statement, indicative masterplans suggesting a number of options, Transport Assessment, Ecological Assessment, Landscape Assessment, Noise and Vibration Assessment, Air Quality Assessment, Hydrology, Hydrogeology and Drainage Assessment, Employment Land Study, Archaeology and Cultural Heritage Assessment and a Non-Technical Summary.

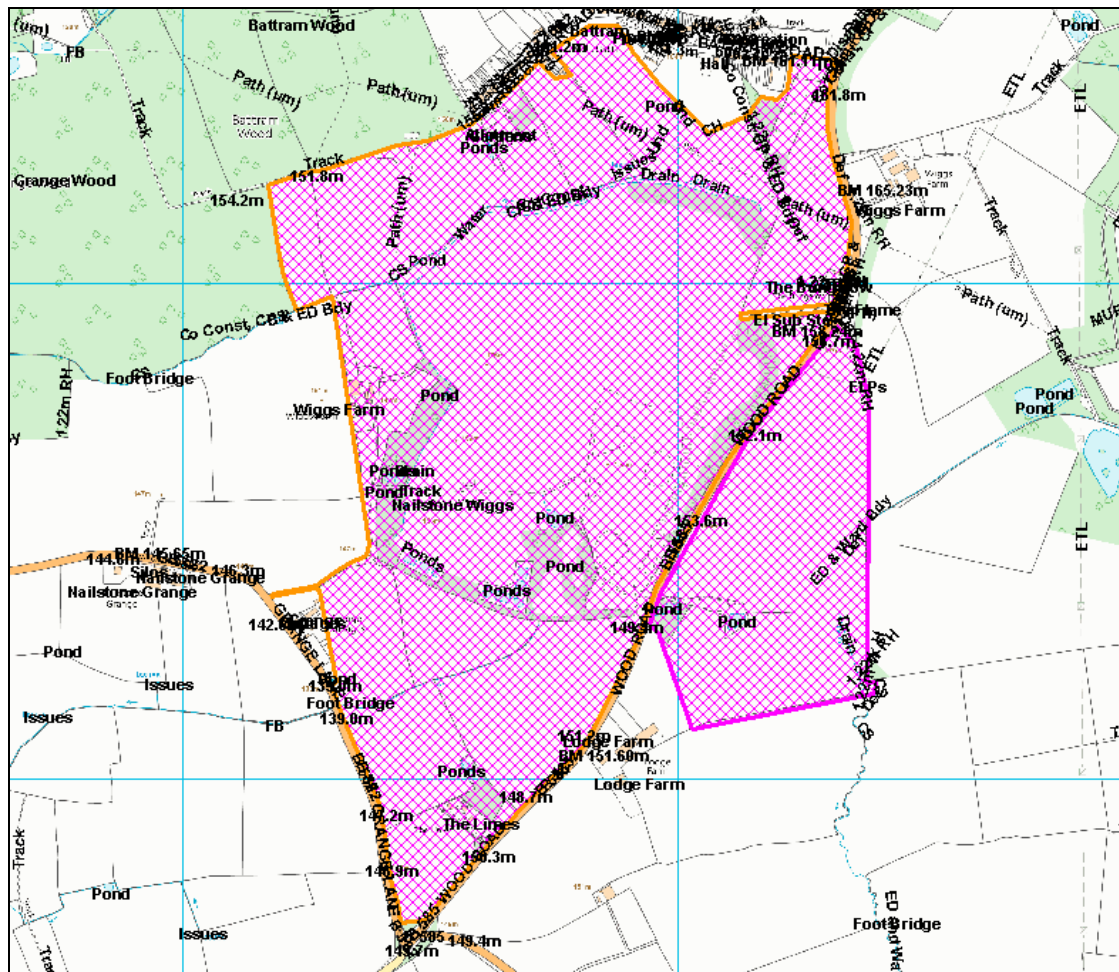
Scoping as part of 10/00851/EXT required an addendum to be submitted in relation to ecology and a full Ecological Assessment was submitted.

Condition 10 of 10/00851/EXT was discharged in July 2014 following full and detailed technical reports relating to ecology. These surveys and strategies related to a bat survey, ecological mitigation strategy, habitat assessment and management plan, reptile survey and great crested newt survey.

Given that both previous applications are considered to be Environmental Impact Assessment development for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 full consideration has been given to environmental impacts of this development in the appraisal below.

Relevant Planning History:-

11/00837/CONDIT	Removal of condition 23 of planning permission 10/00581/EXT	Approved	12.12.11
10/00851/EXT	Extension of time for 06/00980/OUT	Approved	15.02.11
06/00980/OUT	Redevelopment of the Former Colliery Site to Distribution Uses (Class B8), Small Business Units (Classes B1(C), B2 and B8), a Country Park, Landscaping, Open Space and the Formation of a New Access	Approved by the Secretary of State following call-in	06.03.08



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Consultations:-

No objections have been received from:-

- Head of Community Services (Land Drainage)
- Head of Community Services (Pollution)
- Environment Agency
- The Coal Authority
- Highways Agency
- Leicestershire County Council Highways
- Leicestershire County Council Ecology
- Leicestershire County Council Strategic Planning
- Leicestershire County Council Historic Environment Service
- Natural England
- The National Forest
- North West Leicestershire District Council.

A site notice was displayed, neighbours notified and press notice publicised. No representations received.

Policy:-

National Policy Guidance

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

Hinckley & Bosworth Core Strategy 2009

Policy 21: National Forest

Hinckley & Bosworth Local Plan 2001

Policy EMP4: Employment Development on Sites Other Than Those Allocated for Employment Uses
Policy NE2: Pollution
Policy NE10: Local Landscape Improvement Areas
Policy BE1: Design and Siting of Development
Policy T5: Highway Design & Vehicle Parking Standards
Policy T11: Traffic Impact Assessment
Policy REC4: Proposals for Recreational Facilities
Policy REC9: Access to the Countryside
Policy REC12: Nailstone Colliery

Other Documents/Guidance

Employment and Land Premises Study 2013

Appraisal:-

In determining the original application (06/00980/OUT) in 2008, the Secretary of State considered the relationship of the proposal to the development plan, including the sequential approach and sustainability of the site; the restoration and regeneration benefits; employment land supply and labour market issues; landscape and visual impacts; ecology and nature conservation matters; highways and transport issues; impacts on agricultural productivity and other issues including archaeology, contamination and biodiversity.

The conclusions of the Secretary of State were that whilst there was conflict with some specific policies in the development plan, that conflict was considered to be outweighed by positive impacts and regeneration benefits arising from the proposed development and accordingly outline planning permission was granted subject to conditions.

The Borough Council considered the extension of time application (10/00851/EXT) in 2011 and resolved that the no adverse material issues had arisen since the Secretary of State granted originally consent and that the regeneration benefits of the scheme would continue to outweigh any harm and permission was granted. At this time a request was considered by the applicant to amend the time limit for commencement from three years to five years given the scale of the scheme and state of the economic climate at that time. This was considered acceptable and as such the time limit on condition 1 was amended to five years for commencement of development.

Whilst this Section 73 application now seeks to introduce minor variations to the wording of conditions to allow the development to be phased, this decision would effectively grant a new planning permission. As such this application must be considered against the development

plan with a particular focus on any national or development plan policies and other material considerations which may have changed significantly since the original grant of permission.

Given the complex nature of this regeneration scheme officers have undertaken pre-application discussions with the applicant in order to support and engage with the applicant in the formulation of the phasing strategy and condition rewording to enable implementation and delivery of the scheme.

The main considerations in determining this application are therefore whether any development plan policies or other material considerations have changed significantly since the grant of permission which may lead to a different conclusion on the acceptability of the application and if the originally imposed conditions are still required.

Changes to the Development Plan and National Policy Guidance

The major policy changes that have taken place since the principle of the previous application (10/00851/EXT) was determined is the introduction of the National Planning Policy Framework (NPPF) in March 2012 and guidance in the form of the National Planning Practice Guidance in March 2014.

The NPPF at Paragraphs 19 and 20 state that significant weight should be placed on the need to support and help achieve economic growth through the planning system and that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Furthermore, Paragraphs 17 and 111 of the NPPF state that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. The NPPF also sets out a presumption in favour of sustainable development.

It is considered that the NPPF supports the regeneration of previously developed land and attaches significant weight to the delivery of sustainable economic development. The proposed variations to the conditions to allow phasing of the development would help support the delivery of the regeneration of the colliery which would provide economic benefits through future employment, social benefits through the recreational aspects of the country park and environmental benefits through biodiversity enhancements and remediation of the site. The proposal is therefore considered to be sustainable and as such the NPPF supports the principle of development as established by the previous consent.

No material changes have been made to policies of the development plan since the previous application was determined. The policies of the 2001 Local Plan continue to be 'saved' pending adoption of the emerging Site Allocations and Development Management Development Plan Document. Whilst the weight that can be afforded to some of those policies is reduced following the introduction of the NPPF, for the reasons discussed above, the proposal is considered to be sustainable and the principle of development is therefore acceptable.

Condition 1 - Time Limit

Under a Section 73 application the time limit for the commencement of development cannot be extended. A five year time limit for the approval of the reserved matters was imposed as part of the previous extension of time application in 2011. The developer has until 15 February 2016 to have all the reserved matters approved and a subsequent two years from the date of approval to the last of the reserved matters to be approved to commence development.

Condition 2 - Reserved Matters

This condition currently states:-

Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development begins on that particular phase and the development shall be carried out as approved.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 3 - Reserved Matters Information

This condition currently states:-

The reserved matters application or applications shall include the following information for the prior written approval by the local planning authority before development commences:-

- a) *samples and specifications of the materials to be used in the construction of the external surfaces of the buildings*
- b) *the location of all existing trees, groups of trees and hedgerows on the site together with an indication of which it is intended to retain*
- c) *the provision to be made for screen walling or fencing within the development*
- d) *the phasing of the development, including the country park*
- e) *the floor levels of the proposed building in relation to existing and finished ground levels*
- f) *the provision to be made for on-site storage of refuse and/or recycling facilities*
- g) *the provision of energy saving measures and renewable energy generating measures within the development including building construction specifications and manufacturers' specifications of any generation equipment and its installation/operation*
- h) *the provision of external lighting.*

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No works shall start on site or, if a phasing plan has first been agreed in writing with the local planning authority, no works shall start on any individual phase, until the reserved matters application or applications have been submitted and approved by the local planning authority. The reserved matters application or applications shall include the following information for the prior written approval by the local planning authority before development commences:-

- a) *samples and specifications of the materials to be used in the construction of the external surfaces of the building*
- b) *the location of all existing trees, groups of trees and hedgerows on the site together with an indication of which it is intended to retain*
- c) *the provision to be made for screen walling or fencing within the development*
- d) *the phasing of the development, including the country park*

- e) *the floor levels of the proposed building in relation to existing and finished ground levels*
- f) *the provision to be made for on-site storage of refuse and/or recycling facilities*
- g) *the provision of energy saving measures and renewable energy generating measures within the development including building construction specifications and manufacturers specifications of any generation equipment and its installation/ operation*
- h) *the provision of external lighting.*

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 4 - Masterplan

This condition currently states:-

The development shall be carried out generally in accordance with Option Plan 1, numbered N14/56, dated August 2006, unless the local planning authority gives its written consent to any variation as part of the approval of reserved matters pursuant to this permission.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

The development shall be carried out generally in accordance with Option Plan 1, numbered N14/56, dated August 2006, unless the local planning authority gives its written consent to any variation as part of the approval of reserved matters pursuant to this permission and shall be phased in accordance with a phasing plan to be submitted to and approved by the local planning authority.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 5 - Drainage

This condition currently states:-

Development shall not begin until (i) drainage details incorporating sustainable drainage principles and an assessment of the hydro-geological context of the development works; (ii) details of the provision of surface water drainage from the parking and hard-standing areas of the development passing through petrol and oil interceptors and trapped gullies; (iii) details of how roof water shall be passed from the site or otherwise treated in accordance with a surface water run-off limitation scheme; and (iv) details of how foul waters from the site shall be treated and/or disposed of in accordance with a scheme of drainage, are submitted to and approved in writing by the local planning authority. No surface water discharge from the development shall drain from the site onto the highway.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

Development shall not begin on any individual phase of the development until (i) drainage details incorporating sustainable drainage principles and an assessment of the hydro-geological context of the development works; (ii) details of the provision of surface water drainage from the parking and hard-standing areas of the development passing through petrol and oil interceptors and trapped gullies; (iii) details of how roof water shall be passed from the site or otherwise treated in accordance with a surface water run-off limitation scheme; and (iv) details of how foul water from the site shall be treated and/or disposed of in accordance with a scheme of drainage, are submitted to and approved in writing by the local

planning authority for that particular phase. No surface water discharge from the development shall drain from the site onto the highway.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 6 - Sewers

This condition currently states:-

No building shall be erected or trees planted within 4 metres each side of the public rising main sewer which crosses the site. No buildings, structures (including gates, walls and fences) or raised ground levels shall be erected or take place within 8 metres of the top of the bank of any watercourse and/or within 4 metres of any culverted watercourse inside or adjacent to the site unless previously agreed in writing by the local planning authority.

The applicant is not proposing to vary this condition. It is considered appropriate to continue to impose it as the condition remains necessary, reasonable and relevant to the development.

Condition 7 - Contamination

This condition currently states:-

Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority; the scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public/buildings/environment when the site is developed. The buildings on the site shall not be occupied and the country park shall not open to the public until the measures approved in the scheme have been implemented in full unless the local planning authority gives its written consent to any variation.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

Development shall not begin on any individual phase of the development until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority for that particular phase; the scheme shall include an investigation and assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the public/buildings/environment when the site is developed. The buildings on each phase of the site shall not be occupied and each phase of the country park shall not be open to the public until the measures approved in the scheme have been implemented in full or unless the local planning authority gives it written consent to any variation.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 8 - Construction Method Statement

This condition currently states:-

No development shall take place, including any works of demolition, remediation earthworks, re-contouring, capping and building construction, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved

Statement shall be adhered to throughout the construction period. The Statement shall provide for:-

- a) the parking of vehicles of site operatives and visitors*
- b) loading and unloading of plant and materials*
- c) storage of plant and materials used in constructing the development*
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- e) wheel washing facilities*
- f) measures to control the emission of noise, vibration, dust and dirt during construction*
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works.*

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No development shall take place on any individual phase of the development, including any works of demolition, remediation earthworks, re-contouring, capping and building construction, until a Construction Method Statement for that particular phase has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:-

- a) the parking of vehicles of site operatives and visitors*
- b) loading and unloading of plant and materials*
- c) storage of plant and materials used in constructing the development*
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- e) wheel washing facilities;*
- f) measures to control the emission of noise, vibration, dust and dirt during construction*
- g) a scheme for recycling/ disposing of waste resulting from demolition and construction works*
- h) a point of contact on site to consider any concerns raised during the course of the development.*

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable. The applicant has added an additional requirement to provide a point of contact on site to consider any concerns raised during the course of the development. This is appraised in further detail later in the report in relation to Condition 24.

Condition 9 - Noise

This condition currently states:-

Construction work shall not begin until a scheme for protecting the occupiers of noise-sensitive development located around the site from noise generated by the development hereby permitted; including noise from vehicles in operation on the site has been submitted to and approved in writing by the local planning authority; all works which form part of the scheme shall be completed before any part of the development is first occupied.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

Construction work on any individual phase of the development shall not begin until a scheme for protecting the occupiers of noise-sensitive development located around the site from noise generated by the development hereby permitted; including noise from vehicles in operation on the site has been submitted to and approved in writing by the local planning authority; all works which form part of the scheme for that phase shall be completed before any part of that phase of development is first occupied.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 10 - Ecology

This condition states the following:-

Before development commences a scheme shall be submitted to and approved in writing by the local planning authority for the mitigation or compensation for any habitat loss or displacement of any protected species as a result of the development permitted. The scheme shall also include a full management plan, including measures to conserve and maximise the ecological potential of the site, future monitoring and provision for corrective action. The approved scheme shall be implemented as agreed unless the local planning authority gives its written consent to any variation.

Full details in the form of updated ecology reports and mitigation strategies for protected species have been submitted to the Council. These details were considered to be acceptable to Leicestershire County Council Ecology and as such the condition has been discharged.

The enhancement of the biodiversity of the site has led the proposal and emerging phasing strategy to date, including the translocation of great crested newts, provision of new badger setts and the protection of bats.

The following condition will therefore be imposed:-

The development shall be carried out strictly in accordance with the following ecology reports, mitigation strategies and management plans:-

- *RT-MME-115788 Tree Climbing Bat Survey of Trees to be Impacted by Development prepared by Middlemarch Ltd dated December 2013.*
- *RT-MME114069-01 Ecological Mitigation Strategy prepared by Middlemarch Ltd dated October 2013.*
- *RT-MME-114069-02 Rev A Habitat Management Plan by Middlemarch Ltd dated October 2013.*
- *RT-MME-113996-04 Initial Daytime Bat Survey by Middlemarch Ltd dated June 2013.*
- *RT-MME-113996-05 Reptile Survey by Middlemarch Ltd dated June 2013.*
- *RT-MME-113996-02 Great Crested Newt Survey by Middlemarch Ltd dated May 2013.*
- *RT-MME-115867 Detailed Habitat Assessment of Former Colliery Areas by Middlemarch Ltd dated January 2014.*
- *RT-MME-113996-03 Badger Survey by Middlemarch Ltd dated June 2013.*
- *RT-MME-113996-01 Extended Phase 1 Habitat Survey by Middlemarch Ltd dated June 2013.*

It is considered that this condition is necessary, relevant and reasonable to be imposed.

Condition 11 - Landscaping Scheme

This condition currently states:-

No development shall take place until full details of both hard and soft landscape works, required by condition 2 above 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 the proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (including furniture, play equipment, refuse or other storage units, signs and lighting); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme. The works shall be carried out prior to the occupation of any 'part of the development or in accordance with the programme agreed in writing with the local planning authority.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No development shall take place on any individual phase of the development until full details of both hard and soft landscape works for that phase, required by condition 2 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 the proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (including furniture, play equipment, refuse and other storage units, signs and lighting); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/ densities where appropriate and an implementation programme. The works shall be carried out prior to the occupation of any part of the development or in accordance with the phasing programme agreed in writing with the local planning authority.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 12 - Landscape Maintenance

This condition currently states:-

No development shall take place until a schedule of landscape maintenance, including provision for replacement of any failures, for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No development shall take place on any individual phase of the development until a schedule of landscape maintenance for that phase, including provision for replacement of any failures, for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 13 - Sustainable Transport Scheme

This condition currently states:-

No development shall commence until a scheme of footways, cycle ways and bridleways, together with their access to the site and to Nailstone, Bagworth and Battram villages, and any ancillary works related thereto has been submitted to and approved in writing by the local planning authority and no buildings within the development shall be occupied until the works proposed in the scheme have been carried out and completed, unless the local planning authority gives its written consent to any variation.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No development shall commence on any individual phase until a scheme of footways, cycle ways and bridleways for that phase, together with their access to the site and to Nailstone, Bagworth and Battram villages, and any ancillary works related thereto has been submitted to and approved in writing by the local planning authority and no buildings within that phase of the development shall be occupied until the works proposed in the scheme have been carried out and completed, unless the local planning authority gives its written consent to any variation.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 14 - Floorspace Limitations

This condition states:-

The development shall comprise the following land use areas with not more than 1,862 square metres of small business units (Class B 1(c), B2 and B8 uses) and not more than 93,109 square metres of distribution storage uses (B8) of which no individual unit shall be less than 10,000 square metres and no subdivision shall occur below this minimum.

The applicant is not proposing to vary this condition. It is considered reasonable and necessary to continue to impose this condition as it runs to the heart of the original permission granted by the Secretary of State and subsequent extension of time in providing a balanced mix between sustainable economic development and social and environmental sustainability of the regeneration to provide the delivery of the country park.

Condition 15 - Travel Plan

This condition states:-

No development shall take place until a Framework Travel Plan, including details of the mechanism to be used for its delivery, monitoring and enforcement has been submitted to and approved in writing by the local planning authority. The development shall be implemented and thereafter operated in accordance with the measures and timetable stated in the approved Framework Travel Plan unless the local planning authority gives its written consent to any variation.

The applicant is not proposing to vary this condition. It is considered appropriate to continue to impose it as the condition remains necessary, reasonable and relevant to the development in terms of providing sustainable transport options.

Condition 16 - Parking, Servicing and Turning Areas

This condition currently states:-

No building shall be occupied until space has been laid out within the site for cars and other vehicles to be parked and for the loading and unloading of goods vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. No building shall be occupied until the parking, servicing and turning areas within the site have been drained and surfaced in accordance with details submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any purpose other than the parking, turning or loading/unloading of vehicles.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No building shall be occupied in any individual phase of the development until space has been laid out within that phase for cars and other vehicles to be parked and for the loading and unloading of goods vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. No building shall be occupied in any individual phase of the development until the parking, servicing and turning areas within the site have been drained and surfaced in accordance with details for that phase submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any purpose other than the parking, turning or loading/unloading of vehicles.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 17 - Bicycle Parking

This condition currently states:-

No building shall be occupied until space has been laid out within the site for bicycles to be parked and once provided the dedicated space shall be kept available for such use.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

No building shall be occupied in any individual phase of the development until space has been laid out within that phase for bicycles to be parked and once provided the dedicated space shall be kept available for such use.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 18 - Vehicle Access

This condition states:-

No building shall be occupied until the means of vehicular access has been constructed in accordance with the plan no.15209/003/002/D. The employment site access road shall have a minimum carriageway width of 7.3m and minimum footway/cycleway widths of 3 m

including a separating strip. Before any building is occupied the internal access drives and turning spaces shall be surfaced, marked and drained in accordance with details to be submitted to and approved in writing by the local planning authority, and thereafter retained to service the development.

The applicant is not proposing to vary this condition. It is considered appropriate to continue to impose it as the condition remains necessary, reasonable and relevant to the development in respect of highway safety.

Condition 19 - Gates

This condition states:-

Before any building is occupied the existing gates to the vehicular access shall be removed and any new vehicular access gates, barriers, bollards, chains or other restrictions erected shall be set back a minimum of 60 m from the highway boundary and shall be so hung as to open inwards.

The applicant is not proposing to vary this condition. It is considered appropriate to continue to impose it as the condition remains necessary, reasonable and relevant to the development in respect of highway safety.

Condition 20 - Existing Vehicular Accesses

This condition states:-

All existing vehicular accesses, with the exception of the farm track providing access from Wiggs Farm onto the B582 Grange Lane, shall be permanently closed within 7 days of the new access being brought into use and the existing vehicle crossings reinstated within 28 days in accordance with details to be submitted to and approved in writing by the local planning authority.

The applicant is not proposing to vary this condition. It is considered appropriate to continue to impose it as the condition remains necessary, reasonable and relevant to the development in respect of highway safety.

Condition 21 - Construction Traffic Routeing

This condition states:-

Before development commences details of the routeing of construction traffic shall be submitted to for approval in writing by, the local planning authority. During the period of construction all traffic to and from the site shall use the agreed route at all times unless the local planning authority gives its written consent to any variation.

The applicant is seeking to vary this condition to introduce phasing with the following wording:-

Before development commences on any individual phase of the development details of the routeing of construction traffic for that phase shall be submitted to, for approval in writing by, the local planning authority. During the period of construction all traffic to and from the site shall use the agreed route at all times unless the local planning authority gives its written consent to any variation.

It is considered that this condition continues to remain necessary, relevant and reasonable and the wording to introduce phasing is acceptable.

Condition 22 - Gateway Feature

This condition states:-

Before development commences details of the location and construction of the proposed "gateway" feature for Nailstone village shall be submitted to and approved in writing by the local planning authority. The feature shall be provided in accordance with the approved scheme of details before any building on the site is first occupied.

The applicant is not proposing to vary this condition. Discussions have taken place with the applicant, North West Leicestershire District Council and the National Forest in respect of what might be a suitable 'gateway' feature to the site. It has been agreed in principle that it would be most appropriate to place such a feature at the southern tip of the site, close to the intersection between Grange Lane, Wood Road and Bagworth Road. In due course it may be that the future name of the employment site and country park could be linked into a feature/sign with the National Forest.

It is considered that this condition continues to remain necessary, relevant and reasonable to be imposed.

Condition 23 - M1 Junction 22 Works

This condition has been removed under 11/00837/CONDIT in 2011 and as such is no longer relevant to this application.

Condition 24 - Liaison Committee

This condition states:-

Before development commences a scheme shall be submitted to and approved in writing by the local planning authority detailing arrangements for the establishment, composition, constitution and powers of a liaison committee to include representatives of the applicants/developer; representatives of other elected bodies and other nominated persons. The committee shall operate during the construction phase of the development and thereafter for a minimum period, in accordance with the approved scheme, of 3 years after completion of development unless otherwise agreed in writing by the local planning authority.

The applicant is seeking to remove this condition due to concerns over the difficulty with establishing a formal committee with a constitution and who would be best placed to sit on this committee. The applicant has advised that as developer they are responsible constructors who have experience in managing large scale commercial/industrial developments. In order to make sure there is a point of contact during construction works a requirement has been added to the Construction Method Statement as set out in Condition 8 to require there to be a point of contact on site to consider any concerns raised during the course of the development.

It is considered that this would be a reasonable way to ensure that any issues that are raised during construction can be dealt with promptly without being onerous to any party. It should be noted that if there are any breach of planning conditions during or post construction enforcement action can be initiated by the Council or if noise complaints occur action can be taken by the Council through noise nuisance legislation. As such it is considered acceptable to remove this condition.

Planning Obligations

A S106 Agreement was completed by way of a unilateral undertaking as part of the original application determined by the Secretary of State (06/00980/OUT). A deed of variation was undertaken as part of the extension of time application (10/00851/EXT). The agreement set out obligations in relation to the management of the country park, transport infrastructure and travel obligations. For the purposes of this Section 73 application a further deed of variation is to be completed. There are however substantial elements of the S106 Agreement that will need updating in respect of the phasing strategy and due to changes in infrastructure requirements that will need to be considered at the reserved matters stage.

Environmental Impact Assessment

The NPPG states that a Section 73 application is considered to be a new application for planning permission under the 2011 Environmental Impact Assessment Regulations. The NPPG advises that where an Environmental Impact Assessment was carried out on the original application, the planning authority will need to consider if further information needs to be added to the original Environmental Statement to satisfy the requirements of the Regulations.

For the purposes of this Section 73 application, given that the variations to the conditions only introduce the ability for the development to be phased and do not introduce the actual phasing strategy at this stage, further information in the form of addendum documents to the Environmental Statement are not required as nothing material has changed since the original application or extension of time was granted.

As such for the purposes of this application the Environmental Statement consists of those documents covering the Planning Statement, Design and Access Statement, indicative masterplans, Transport Assessment, Ecological Assessment, Landscape Assessment, Noise and Vibration Assessment, Air Quality Assessment, Hydrology, Hydrogeology and Drainage Assessment, Employment Land Study, Archaeology and Cultural Heritage Assessment and Non-Technical Summary submitted as part of 06/00980/OUT and the addendum ecological assessments submitted as part of 10/00581/EXT. In addition, the ecological appraisals and mitigation strategies submitted as part of condition 10 of 10/00581/EXT and subsequently discharged form an addendum to the Environmental Statement.

The applicant is aware that for the reserved matters application which will introduce the actual details of the phasing strategy and final masterplan for the site, that addendums to the original Environmental Statement (with the exception of ecology which has been discharged) will be required where necessary to reflect the final layout, phasing and implementation.

Conclusion

The NPPF supports sustainable economic development. The proposed variation to the conditions as set out above to allow phasing of the scheme is considered to support sustainable economic development and is considered to be acceptable in principle. The variations will not result in a development which substantially or materially different from the one which has been previously approved.

The variations are considered to be minor in nature, relating to wording changes that would not conflict with the reasoning for the conditions being imposed at the time consent was previously granted or the substance of the existing permission. It is common for regeneration projects of this scale where there are complex environmental and technical issues to be dealt with through phasing, to ensure the site is delivered in a logical manner and to establish a

revenue stream early on in the redevelopment to ensure the successful delivery of the entire regeneration scheme.

Following approval of a subsequent reserved matters application to incorporate a phased masterplan, the proposed regeneration of the site would deliver approximately 100,000 square metres of employment floorspace, which would be of significant benefit to the local area and meet an identified need within the Borough. Public access would be provided throughout the country park that would provide a locally significant network of both cycle and pedestrian routes through and around the site, linking to existing footpaths in the area and the National Forest. Regeneration of the site would deliver much needed remediation including the capping and re-contouring of the spoil mounds, resolving contamination and water pollution issues and providing biodiversity enhancements.

The proposed variations to the conditions are considered to be necessary to deliver the regeneration of this site. The proposal is considered to be substantially in accordance with the development plan together with the overarching principles of the NPPF.

RECOMMENDATION:- Grant subject to S106 obligations and subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be generally in accordance with the development plan, the National Planning Policy Framework and the positive impacts of the regeneration of the site with a mixed-use strategic employment development, together with the environmental benefits of the regeneration of the site and social and environmental benefits of the creation of a country park would result in a sustainable development.

Hinckley and Bosworth Local Plan (2001):- Policies EMP4, BE1, NE2, NE5, NE10, T5, T11, REC4, REC9 and REC12.

Local Plan 2006-2026: Core Strategy (2009):- Policy 21.

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.

Conditions:-

Time Limit

- 1 Application for approval of the reserved matters shall be made to the local planning authority not later than five years from 15 February 2011 and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reserved Matters

- 2 Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development begins on that particular phase and the development shall be carried out as approved.

- 3 No works shall start on site or, if a phasing plan has first been agreed in writing with the local planning authority, no works shall start on any individual phase, until the reserved matters application or applications have been submitted and approved by the local planning authority. The reserved matters application or applications shall include the following information for the prior written approval by the local planning authority before development commences:-
- a) samples and specifications of the materials to be used in the construction of the external surfaces of the building
 - b) the location of all existing trees, groups of trees and hedgerows on the site together with an indication of which it is intended to retain
 - c) the provision to be made for screen walling or fencing within the development
 - d) the phasing of the development, including the country park
 - e) the floor levels of the proposed building in relation to existing and finished ground levels
 - f) the provision to be made for on-site storage of refuse and/or recycling facilities
 - g) the provision of energy saving measures and renewable energy generating measures within the development including building construction specifications and manufacturers specifications of any generation equipment and its installation/operation
 - h) the provision of external lighting.

Masterplan

- 4 The development shall be carried out generally in accordance with Option Plan 1, numbered N14/56, dated August 2006, unless the local planning authority gives its written consent to any variation as part of the approval of reserved matters pursuant to this permission and shall be phased in accordance with a phasing plan to be submitted to and approved by the local planning authority.

Drainage

- 5 Development shall not begin on any individual phase of the development until (i) drainage details incorporating sustainable drainage principles and an assessment of the hydro-geological context of the development works; (ii) details of the provision of surface water drainage from the parking and hard-standing areas of the development passing through petrol and oil interceptors and trapped gullies; (iii) details of how roof water shall be passed from the site or otherwise treated in accordance with a surface water run-off limitation scheme; and (iv) details of how foul water from the site shall be treated and/or disposed of in accordance with a scheme of drainage, are submitted to and approved in writing by the local planning authority for that particular phase. No surface water discharge from the development shall drain from the site onto the highway.

Sewers

- 6 No building shall be erected or trees planted within 4 metres each side of the public rising main sewer which crosses the site. No buildings, structures (including gates, walls and fences) or raised ground levels shall be erected or take place within 8 metres of the top of the bank of any watercourse and/or within 4 metres of any culverted watercourse inside or adjacent to the site unless previously agreed in writing by the local planning authority.

Contamination

- 7 Development shall not begin on any individual phase of the development until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority for that particular phase; the scheme shall include an investigation and assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the public/buildings/environment when the site is developed. The buildings on each phase of the site shall not be occupied and each phase of the country park shall not be open to the public until the measures approved in the scheme have been implemented in full or unless the local planning authority gives it written consent to any variation.

Construction Method Statement

- 8 No development shall take place on any individual phase of the development, including any works of demolition, remediation earthworks, re-contouring, capping and building construction, until a Construction Method Statement for that particular phase has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:-
- a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of noise, vibration, dust and dirt during construction;
 - g) a scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - h) a point of contact on site to consider any concerns raised during the course of the development.

Noise

- 9 Construction work on any individual phase of the development shall not begin until a scheme for protecting the occupiers of noise-sensitive development located around the site from noise generated by the development hereby permitted; including noise from vehicles in operation on the site has been submitted to and approved in writing by the local planning authority; all works which form part of the scheme for that phase shall be completed before any part of that phase of development is first occupied.

Ecology

- 10 The development shall be carried out strictly in accordance with the following ecology reports, mitigation strategies and management plans:-
- RT-MME-115788 Tree Climbing Bat Survey of Trees to be Impacted by Development prepared by Middlemarch Ltd dated December 2013.
 - RT-MME114069-01 Ecological Mitigation Strategy prepared by Middlemarch Ltd dated October 2013.
 - RT-MME-114069-02 Rev A Habitat Management Plan by Middlemarch Ltd dated October 2013.

- RT-MME-113996-04 Initial Daytime Bat Survey by Middlemarch Ltd dated June 2013.
- RT-MME-113996-05 Reptile Survey by Middlemarch Ltd dated June 2013.
- RT-MME-113996-02 Great Crested Newt Survey by Middlemarch Ltd dated May 2013.
- RT-MME-115867 Detailed Habitat Assessment of Former Colliery Areas by Middlemarch Ltd dated January 2014.
- RT-MME-113996-03 Badger Survey by Middlemarch Ltd dated June 2013.
- RT-MME-113996-01 Extended Phase 1 Habitat Survey by Middlemarch Ltd dated June 2013.

Landscaping

- 11 No development shall take place on any individual phase of the development until full details of both hard and soft landscape works for that phase, required by condition 2 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 the proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (including furniture, play equipment, refuse and other storage units, signs and lighting); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/ densities where appropriate and an implementation programme. The works shall be carried out prior to the occupation of any part of the development or in accordance with the phasing programme agreed in writing with the local planning authority.
- 12 No development shall take place on any individual phase of the development until a schedule of landscape maintenance for that phase, including provision for replacement of any failures, for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Sustainable Transport Scheme

- 13 No development shall commence on any individual phase until a scheme of footways, cycle ways and bridleways for that phase, together with their access to the site and to Nailstone, Bagworth and Battram villages, and any ancillary works related thereto has been submitted to and approved in writing by the local planning authority and no buildings within that phase of the development shall be occupied until the works proposed in the scheme have been carried out and completed, unless the local planning authority gives its written consent to any variation.

Floor Space Limitations

- 14 The development shall comprise the following land use areas with not more than 1,862 square metres of small business units (Class B 1(c), B2 and B8 uses) and not more than 93,109 square metres of distribution storage uses (B8) of which no individual unit shall be less than 10,000 square metres and no subdivision shall occur below this minimum.

Travel Plan

- 15 No development shall take place until a Framework Travel Plan, including details of the mechanism to be used for its delivery, monitoring and enforcement has been submitted to and approved in writing by the local planning authority. The development shall be implemented and thereafter operated in accordance with the measures and timetable stated in the approved Framework Travel Plan unless the local planning authority gives its written consent to any variation.

Highways

- 16 No building shall be occupied in any individual phase of the development until space has been laid out within that phase for cars and other vehicles to be parked and for the loading and unloading of goods vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. No building shall be occupied in any individual phase of the development until the parking, servicing and turning areas within the site have been drained and surfaced in accordance with details for that phase submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any purpose other than the parking, turning or loading/unloading of vehicles.
- 17 No building shall be occupied in any individual phase of the development until space has been laid out within that phase for bicycles to be parked and once provided the dedicated space shall be kept available for such use.
- 18 No building shall be occupied until the means of vehicular access has been constructed in accordance with the plan no.15209/003/002/D. The employment site access road shall have a minimum carriageway width of 7.3 m and minimum footway/cycleway widths of 3 m including a separating strip. Before any building is occupied the internal access drives and turning spaces shall be surfaced, marked and drained in accordance with details to be submitted to and approved in writing by the local planning authority, and thereafter retained to service the development.
- 19 Before any building is occupied the existing gates to the vehicular access shall be removed and any new vehicular access gates, barriers, bollards, chains or other restrictions erected shall be set back a minimum of 60 m from the highway boundary and shall be so hung as to open inwards.
- 20 All existing vehicular accesses, with the exception of the farm track providing access from Wiggs Farm onto the B582 Grange Lane, shall be permanently closed within 7 days of the new access being brought into use and the existing vehicle crossings reinstated within 28 days in accordance with details to be submitted to and approved in writing by the local planning authority.
- 21 Before development commences on any individual phase of the development details of the routeing of construction traffic for that phase shall be submitted to, for approval in writing by, the local planning authority. During the period of construction all traffic to and from the site shall use the agreed route at all times unless the local planning authority gives its written consent to any variation.

Gateway Feature

- 22 Before development commences details of the location and construction of the proposed "gateway" feature for Nailstone village shall be submitted to and approved in writing by the local planning authority. The feature shall be provided in accordance with the approved scheme of details before any building on the site is first occupied.

Reasons :-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2&3 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.
- 4 For the avoidance of doubt and in the interests of proper planning.
- 5 To prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 6 To maintain essential access for maintenance, repair, and renewal and to protect the structural integrity of the public sewerage system to comply with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 7 To ensure the protection of controlled waters to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 8 To protect the amenities of surrounding properties and in the interest of highway safety to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure the development does not have an adverse impact on the amenities of surrounding properties in terms of noise to accord with Policies NE2 and BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 In the interests of biodiversity in accordance with the National Planning Policy Framework.
- 11 To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 12 To ensure that the work is carried out to a reasonable standard and within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 13 In the interests of the sustainability of the development and to encourage alternative transport choice to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 14 To define the permission and to protect the strategic employment status of the site to accord with Policy EMP1 of the adopted Hinckley and Bosworth Local Plan.
- 15 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan.

- 16 In the general interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 17 In the interests of the sustainability of the development and to encourage alternative transport choice to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 18 In the interests of highway safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 19 To protect the free and safe passage of traffic, including pedestrians, in the public highway to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 20 To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 21 To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 22 In the interests of visual amenity and highway safety to accord with policy BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Item: 07
Reference: 14/00648/COU
Applicant: Mr Ben Moore
Location: The Pantry 102 Rugby Road Hinckley
Proposal: Change of use from ground floor A5 hot food takeaway to D1 religious community centre
Target Date: 1 September 2014

RECOMMENDATION:- Refuse planning permission.

Introduction:-

This application is to be considered at Planning Committee in accordance with the scheme of delegation as the application has been called in by Councillor Witherford to give the Committee the opportunity to consider the issue of parking and the relationship to neighbouring residents.

Application Proposal

This application proposes to change the use of the ground floor of the property from a hot food takeaway (Use Class A5) to a religious community centre (Use Class D1). The overall ground floor area is 73.1sqm. 3 parking spaces will be provided to the rear of the property.

The applicants have confirmed the following details relating to the proposal:-

- Other than Friday afternoon, a maximum of 10 people are expected to visit the premises at any one time.
- On a Friday afternoon, a maximum of 30 people would visit the premises at any one time.
- The hours for prayer differ depending on the time of year as pray takes place from sunrise to sunset. The community centre would open from 7.00am - 8.00pm.
- Friday prayers are intended to take place in three congregations at 1pm, 5pm and 7pm.
- The majority of people who intend to use the premises live within walking distance of the site.
- As part of the planning permission for the hot food takeaway use on the ground floor, soundproofing works have been undertaken.
- There will be no chanting, singing, performing art, music playing or religious ceremonies (other than silent prayer).

Activity (a number of people entering and congregating outside) at the premises was observed by officers on 26th August 2014. No further activity or use of the premises has been noted or recorded. The site continues to be monitored by officers. The applicant has confirmed that the use has not commenced.

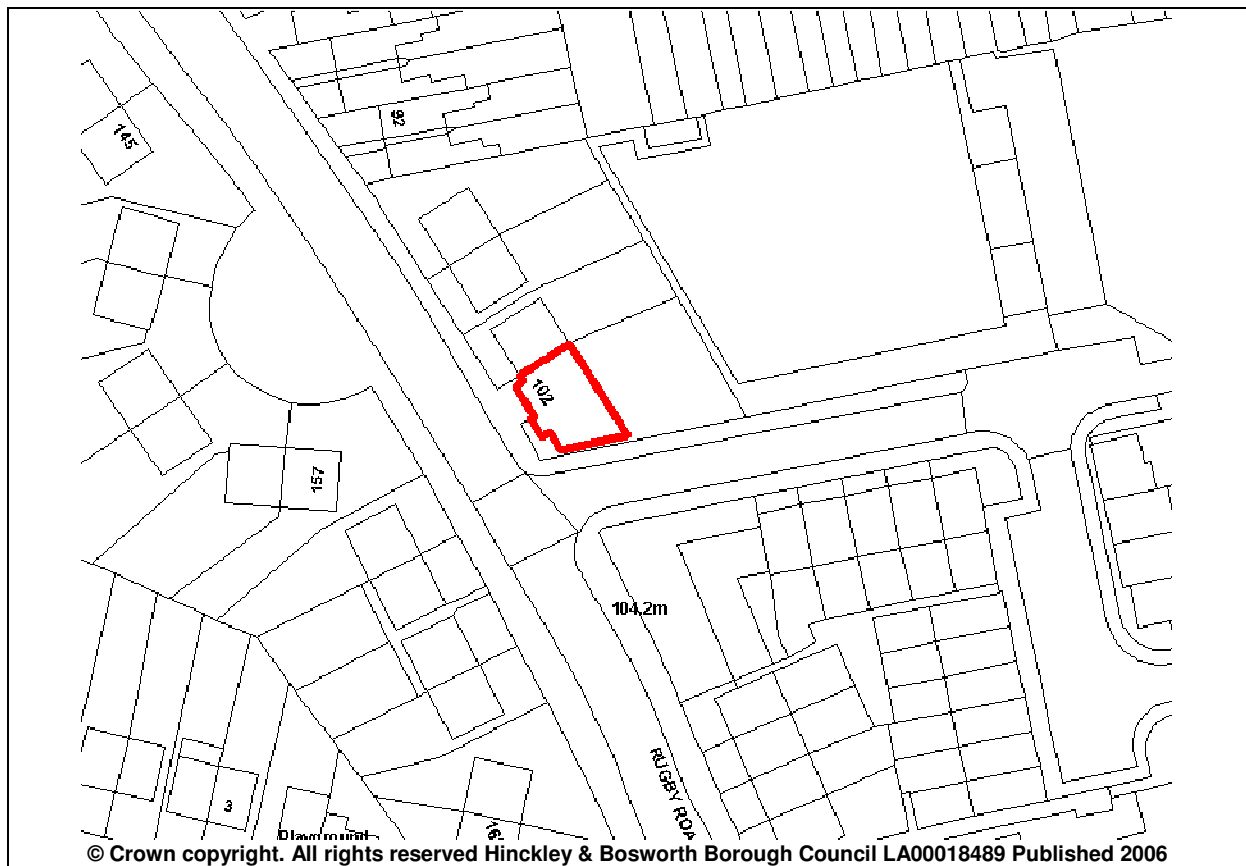
The site and surrounding area

The application dwelling is a semi detached property with the adjoining dwelling No. 100 Rugby Road sited to the north. The property is situated on the junction with Rugby Road and Willowbank Road. The site is located to the south of the town centre, not far from the edge of it, in a locality which is mainly residential but which, just to the north, has shop units fronting the main road interspersed with frontage dwellings.

The site is located within the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan 2001.

Relevant Planning History:-

13/00958/FUL	First floor extension to create two flats with external staircase	Approved	30.12.13
12/00749/CONDIT	Variation of condition 4 of Planning permission 10/00908/COU to vary Opening hours to 07:30- 21:00 for one year	Refused Appeal Allowed	17.10.12 22.04.13
12/00475/CONDIT	Variation of condition 4 of Planning permission 10/00908/COU to vary opening hours to 07:30 - 20:00	Refused	25.07.12
10/00908/FUL	Change of use from retail (Class A1) to hot food takeaway (Class A5) and retention of an external extractor flue (retrospective)	Refused Appeal Allowed	06.02.11 02.09.11
10/00241/FUL	Change of use from retail to hot food takeaway and retention of external extractor flue (retrospective)	Refused Appeal Dismissed	17.05.10 08.10.10
09/00755/CLU	Certificate of existing lawful use of A3 hot food takeaway and restaurant	Refused	15.12.09



Consultations:-

No objection subject to conditions from:-

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

In total 40 (forty) representations have been received:-

One representation makes no comments.
One representation is in support of the application.

38 representations have been received objecting to the application. Six of these have not provided further reasons. A further 15 have objected to the application on the nature of the use and are not considered or reported due to their discriminatory nature. The remaining 17 objections to the application are on the following grounds:-

- a) lack of parking for the facility
- b) with parking restrictions in place, cars will be parked within residential areas close by
- c) there are already serious parking problems in the area and the proposal will aggravate the situation
- d) potential noise pollution and disturbance to residential properties
- e) impact on other businesses in the local area
- f) premises are not suitable.

Policy:-

National Planning Policy

The National Planning Policy Framework (NPPF) March 2012
National Planning Practice Guidance (NPPG)
Equalities Act 2010

Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley

Hinckley & Bosworth Local Plan 2001

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

Policy T5: Highway Design and Vehicle Parking Standards

Policy T10: Secure Cycle Parking Facilities

Policy NE2: Pollution

BE1: Design and Siting of Development

Hinckley & Bosworth Town Centre Area Action Plan (2011)

The site is located within the boundary of the Town Centre Area Action Plan but has no allocation. The site is approximately 50m from the boundary of the Rugby Road parade of shops (allocated as a Shopping Centre under Policy 14b) and 150m from the boundary of the Town Centre

Supplementary Planning Guidance/Documents

None relevant.

Appraisal:-

The main considerations with regards to this application are the principle of development, the relationship to neighbouring residential properties and their amenity and highway considerations.

Principle of Development

The site is located within the settlement boundary of Hinckley, approximately 150m from the boundary of the Town Centre, as defined on the adopted Hinckley and Bosworth Local Plan proposals map and the Town Centre Area Action Plan.

The concerns about the suitability of the premises have been carefully considered.

The application is for a change of use from a takeaway to a religious community centre and with the application site being in close proximity of Hinckley Town Centre and being a former hot food take-away there is a recognition that the proposals are in a sustainable location.

Whilst the site has residential properties neighbouring and adjacent, the character of the area is mixed with the Hinckley Hub and other commercial premises in close proximity and the nearby Crescent/Bus Station scheme under construction.

Having carefully considered the planning policy context, the principle of using the site as a religious community use does not conflict with adopted land-use policy.

Relationship to neighbouring residential properties and commercial businesses

Saved Policy BE1 (i) states that planning permission will be granted where the development; does not adversely affect the occupiers of neighbouring properties. Policy BE1 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 concerns of residents outlined in the 17 letters of representation which have been considered in connection with this application, with regard to noise and disturbance and the comments that have been made relating to the impact on the commercial businesses have been carefully and fully considered.

The application does not propose any alteration to the external appearance of the property. The application seeks to change the use of the ground floor to use the premises as a religious community centre.

The use previously operated as a hot food take-away under planning permission ref. 10/00908/FUL and had a condition attached which limited the opening times from [] to 18:00 due to the relationship of the premises to neighbouring and adjoining residential properties. Planning permission ref. 12/00749/CONDIT permitted a condition to be varied to allow the hot food take-away to open between 07.30-21.00 Monday to Saturday [however in recognition of the need to assess the impact upon the neighbouring premises this was restricted by condition to a temporary 1 year period].

As part of application ref. 10/00908/FUL (change of use from retail (Class A1) to hot food take-away (Class A5) and retention of an external extractor flue (retrospective) soundproofing was required which mitigated the noise impacts from the use. Application ref. 10/00908/FUL was implemented and the sound proofing installed.

The applicant has confirmed that the maximum people that will attend at any one time will be in the region of 30 people at any one time and this will be on a Friday afternoon but could be at all meetings. The relatively small size of the premises would restrict higher numbers of people using the premises. Other than Friday afternoon, the applicant anticipates that there will be between 5-10 people will attend at any one time. The agent has stated that people who visit the centre will sit and discuss activities/pray and has confirmed that there will be no chanting, singing, performance art, music playing or religious ceremonies (other than silent praying). A condition is recommended to restrict the amplification of music.

The comments of Environmental Health officers have been noted with regard to noise impact and attenuation. Furthermore, the previous use as a hot food take-away and the existing soundproofing within the property has been taken into account. In view of this, and the low level of noise that is likely to be generated within the building from the proposed use, the proposal is not likely to give rise to unacceptable levels of noise and disturbance to the detriment of nearby residents.

The use of the premises by up to 30 people at any time represents a significant intensification in the use compared with the former hot food take-away. The use is likely to lead to significant increases in car and pedestrian activity as visitors arrive at, and leaving the premises at any one time. The prayers and meetings would take place for approximately an hour but there would also be disturbance for approximately 15-20mins on either side of this as people meet, leave and congregate outside the premises. This would inevitably cause noise and disturbance in the vicinity of the site and in surrounding streets and has the potential to significantly alter the character of the premises. The local area comprises

densely populated residential streets and occupiers would be adversely affected by the intensity of the use. Despite the applicant's claims that that a majority of the users would walk to the site, it is likely that the level of dropping off and activity (e.g. from the banging of car doors) would be materially different and increase from that of the previous use.

For the reasons outlined, it is considered, on balance, that the proposed use would result in a negative impact on neighbouring amenities.

Highway Considerations

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

The comments and concerns from local residents received relating to parking issues have been considered.

The site has space for up to five vehicles available to park to the rear of the premises. Three parking spaces 3 spaces would have been used for staff of the takeaway, two would be used by the residential flat above (the permission for two flats has not been implemented). There are parking restrictions in place within the surrounding area. Double yellow lines restrict parking immediately to the front of the application site and there are parking bays further along Rugby Road with parking allowed between 8.30am-5.30pm for 30 minutes (no return within 30 minutes).

The applicant has submitted a scheme showing 10 car parking spaces and photographs of how these could be arranged. The car parking spaces however as shown does not show adequate turning or manoeuvring space between these spaces or accurately show the large conifer trees that would prevent the use of space 6 (as shown on the submitted plan). Further the plan and photographs shows that the expectation of what the site can reasonably accommodate is considered to be higher by the applicant which may result in queuing and reversing onto Willowbank Road.

The Director of Environment and Transport (Highways) has no objection to the scheme. The Highway Authority would normally have concerns in connection with a proposal that fails to demonstrate that an appropriate level of off-street parking will be provided and that could lead to an increase in traffic using a substandard access. However, taking into consideration the existing potential for parking in undesirable locations under the current uses, and the existing potential for traffic using the access, it is unlikely that it would be possible to sustain a reason for refusal on grounds of highway safety in the event of an appeal.

Whilst the comments of the Highways Authority have been considered, the level of parking shown by the applicant indicates that the level of traffic would be materially different and of a different profile than that of the approved use. Whilst a highway safety reason could not be supported the impact of parking both within the site and the layout of such spaces, further the potential indiscriminate parking and potential queuing and reversing onto Willowbank Road would have a detrimental impact on the amenity of the area. Further the proposals as set out would harm the amenities of the residents who live above the premises who may be unable to enter or exit the rear yard.

The parking layout as proposed would also leave no space for landscaping or separation to neighbouring garden areas.

Further it is noted that parking would be more long term rather than short term pick up of food associated with a hot food take-away use.

In summary, it is considered that the proposed use would not be any significant impacts upon highway safety but the detail of the application raises concern that the impact on neighbouring residents and business from the change in character of the use is sufficient to cause a material objection to the planning application. Accordingly the development is contrary to Saved Policies T5 and BE1 (criterion g) of the adopted Hinckley and Bosworth Local Plan 2001.

Conclusion

In conclusion, the application relates to a property located within the settlement boundary of Hinckley, in close proximity to the Town Centre and an allocated town centre. For the reasons highlighted above relating to the relationship to neighbouring residents and the parking area, it is considered that, on balance, the development would cause to material harm to the occupiers of the neighbouring dwellings.

Accordingly the application is recommended for refusal of planning permission, for the following reasons

RECOMMENDATION:- Refuse planning permission.

Reasons:-

- 1 The proposals would result in a change in the profile of the premises such that the proposed use would result in a higher level of congregation outside the premises, causing noise and disturbance to neighbouring and nearby residents, queuing and manoeuvring out of the rear yard and parking area and indiscriminate parking. The proposals also seek to intensify the rear parking area to a level that would leave insufficient manoeuvring and turning space. This would cause an impact on the amenities of neighbouring and nearby properties by reason of noise and disturbance, inability to access parking spaces and an unsatisfactory relationship with insufficient landscaping. As such, the proposals would be contrary to policies BE1 and T5 of the Local Plan (2006-2026) and Policy 1 of the Hinckley and Bosworth Core Strategy (2009)

Contact Officer:- Rebecca Grant Ext 5895