

PLANNING COMMITTEE

10 January 2012

RECOMMENDATIONS OF HEAD OF PLANNING
ON APPLICATIONS FOR DETERMINATION BY
THE PLANNING COMMITTEE

BACKGROUND PAPERS

Background papers used in the preparation of these reports are filed in the relevant application files, unless otherwise stated

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Item: 01

Reference: 11/00856/REM

Applicant: Goodman Real Estate (UK) Ltd

Location: Land Bounded By The Ashby Canal, Railway Line And Bridge Road, Incorporating The Former Johnsons Factory Burbage

Proposal: APPROVAL OF RESERVED MATTERS FOR PRIMARY PHYSICAL AND GREEN INFRASTRUCTURE DETAILS INCLUDING THE SKETCHLEY BROOK CORRIDOR, ACCESS ROAD, STRUCTURAL LANDSCAPE, OPEN SPACE AND REMODELLING OF THE LAKE

Target Date: 24 January 2012

Introduction:-

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

Application Proposal

This application is the reserved matters submission for a mixed use development on land bounded by the Ashby Canal, Railway Line and Bridge Road incorporating the former Johnsons factory. This approval of reserved matters is for the primary physical and green infrastructure, with details including the Sketchley Brook corridor, access roads, structural landscaping, open space and remodelling of the lake.

In more detail, the Sketchley Brook will be opened from its culvert to provide a green corridor through the site. This includes areas of informal open space and a local equipped area of play. The green corridor will extend to a pond in a similar position to the existing southern body of water, and will then continue to the canal side park adjacent to the western boundary of the site.

The Rugby Road gateway is to be remodelled. This is to include a new gyratory roundabout. The centre of this is to be landscaped, and will include a pathway a cycle way, and public art.

The existing Rugby Road park is to be improved through the provision of a junior sports pitch, a MUGA, additional youth facilities, a foot and cycle way and a car park, and the existing area of local equipped play is to be improved. Comprehensive landscaping is also proposed across the site.

Details of the main internal roadway have been provided, these illustrate that the access from Logix Park and through the proposed commercial section of the development will be confined to busses with a bus gate situated between the residential and commercial elements. A cycle and footway will run adjacent to this throughout the development.

The existing two ponds, roughly adjacent to the southern boundary are to be filled in and replaced with a single fishing pond. The area is to be landscaped with additional trees, grassed areas, woodland, wildflower areas and reed beds.

The landscaping proposed along the northern boundary takes into account the railway line which bounds the site, and the existing residential development which lies further beyond. A landscape buffer will run along the northern boundary adjacent to a landscaped bund. The height of the bund will take account of the level changes across the site.

Extensive information has also been provided for tree retention, planting and protection across the site.

This application is the first reserved matters submission following the approval of the outline application (10/00518/OUT) for a mixed use development comprising up to 375 dwellings, employment (use classes B1 a, B1c, B2 and B8) a local centre (use classes A1 – A5 and D1), Live/work units, works to Sketchley Brook corridor, remodelling of the lake and associated open space, parking and accesses. This application was approved by committee on 1 March 2011.

For the avoidance of doubt an EIA Scoping has been undertaken. The development is not considered to require an addendum to the existing EIA.

The Site and Surrounding Area

The application site extends from Logix Park to the west to Rugby Road Park to the east, it is bounded by the Birmingham to Leicester Railway line to the north, with properties on Westfield Road beyond. To the south is Severn Trent Water Waste Water Treatment Works (WWTW) and existing residential development on the edge of Burbage.

From west to east the site comprises firstly of Jericho Farm which consists of a number of derelict agricultural buildings and surrounding agricultural land extending from the Ashby Canal (Conservation Area). Further east of this is a small reclamation yard accessed by a level crossing. Beyond this is the now demolished factory formally occupied by Nelson Burgess and an adjacent field formally a recreational area for staff. This is bound by the railway line with residential properties beyond to the north, Brookfield Road and Severn Trent (WWTW) to the south and Burgess Architectural Products, which is outside of the application site, to the east. The Sketchley Brook runs adjacent to the southern boundary.

Across Brookfield Road from the Nelson Burgess site and extending east to Rugby Road is land associated with the former Johnsons factory. This site has largely been cleared of buildings with operations moving to Logix Park. The site is bound by Brookfield Road to the north with Burgess Architectural Products and adjacent car mechanics and sales businesses. To the south the boundary is formed by the rear gardens of residential properties on Dudley Rise, Garden Close, Hillside Road and Applebee Road. This part of the site includes two water bodies used by the factory which are dissected by a public footpath.

Further to the east the site extends across the Rugby Road to include the Rugby Road Park which is owned by the applicant but managed by Burbage Parish Council and adjacent land and buildings which are currently occupied by a dry cleaners. This part of the site is bound by the railway line to the north and residential properties on West Close and Bridge Road to the east and Brookside to the south.

Technical Document submitted with application

The application has been accompanied by a Design and Access Statement, this provides an overview of the site, details of the Masterplan, details of the access from Rugby Road, including the proposed gyratory roundabout, information on the access via Logix Park, a landscape framework plan, details of the development framework and parameters plan,

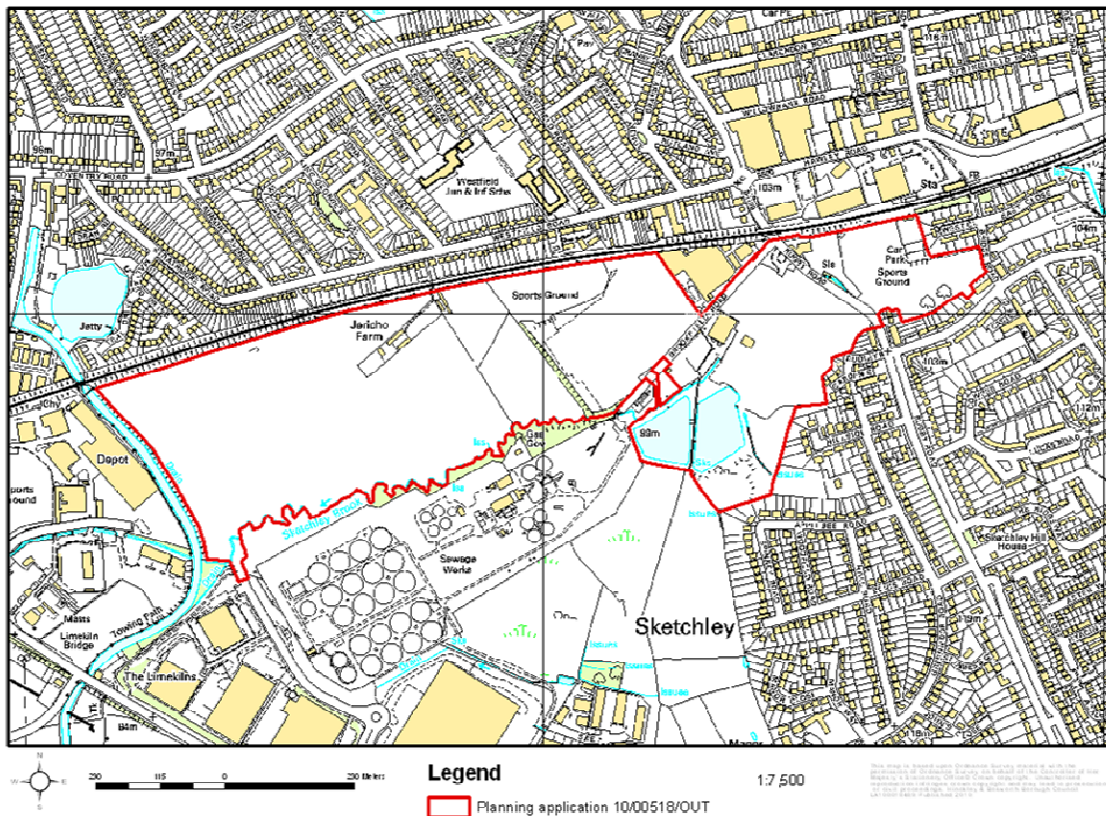
landscape design principles along the northern boundary and the landscape concept, including more in depth detail of the four main landscape areas:-

- Gateway and Park
- Sketchley Brook Corridor East
- Sketchley Brook Corridor West
- Canalside and Pond

Relevant History:-

Various minor applications concerning the previous use of the site.

10/00518/OUT	Mixed use development comprising up to 375 dwellings, employment (use classes B1 a, B1c, B2 and B8) a local centre (use classes A1 – A5 and D1), Live –work units, works to Sketchley Brook corridor, remodelling of the lake and associated open space parking and accesses.	Approved	30.08.11
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Consultations:-

No objection has been received from:-

- Inland Waterways, however they have requested clarification as to whether the footbridge over the canal has been included in the proposal
- Ashby Canal Association
- Network Rail

Highway Agency
Directorate of Chief Executive (Ecology)
Rugby Borough Council
Head of Community Services (Land Drainage).

No objection subject to conditions have been received from:-

Environment Agency including notes to applicant
Directorate of Chief Executive (Archaeology)
Head of Community Services (Pollution).

Head of Corporate and Scrutiny Services (Green Spaces) has not objected, but has provided further comments on the scheme in respect of the sports pitches, landscaping and the changing facility.

The Borough Council's Arboricultural Consultant has not objected, but has provided further comments on the scheme, which relate to the buffer landscaping surrounding the Rugby Road park and the excessive use of tree pits.

Sport England have commented that they want clarification on the size of the proposed MUGA as it appears smaller on this scheme than on the outline application and state that the changing facilities are not shown on the plan.

Director of Environment and Transport (Rights of Way) has objected to the scheme based on the fact that the existing footpath has not been shown on the submitted plans and that no diversion of the footpath has been applied for. Confirmation of the situation is required prior to approval being granted.

Burbage Parish Council have objected to the application.

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

- a) vibration during construction
- b) implications of the highway remodelling and impact on parking and congestion in the vicinity
- c) dust as a result of construction
- d) privacy issues
- e) concern over the proposed traffic lights to be installed at the Westfield Road/Rugby Road junction.

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

Leicestershire & Rutland Playing Fields Association
Severn Trent Water Limited
Natural England
Historical and Natural Environment Team
Ramblers Association
Director of Environment and Transport (Highways)
Leicestershire County and Rutland PCT
The UK's National Cyclist Organisation
Police Architectural Liaison Officer
Nuneaton and Bedworth Borough Council.

Policy:-

National Policy Guidance

Planning Policy Statement 1 - Delivering Sustainable Development sets out the Government's objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

The Planning System: General Principles forms a supplement to PPS1. This states that "planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging Development Plan Documents. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached".

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives.

This document states at paragraph 12 that good design is fundamental to the development of high quality new housing. Paragraph 13 reflecting policy in PPS1 states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted. Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density layout and access.

PPS3 has very recently been updated to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is not longer a national indicative minimum density to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

The PPS states the need for Local Planning Authorities to set out policies and strategies for delivering housing provision which will enable continuous delivery of housing for at least 15 years. Further to this, sufficient specific deliverable sites to deliver housing in the first five years should be identified. Paragraph 71 of PPS3 states that where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing having regard to the policies within the PPS and particularly paragraph 69 which lists the following considerations:-

- a) achieving high quality housing
- b) ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people
- c) the suitability of a site for housing, including its environmental sustainability
- d) using land effectively and efficiently
- e) ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives e.g. addressing housing market renewal issues.

PPS4 sets out the Government's national policies for economic development which includes employment, retail and community development but not residential development. The Statement sets out the overarching objective of securing sustainable economic growth. PPS4 Policy EC10 sets out that "Local planning authorities should adopt a positive and constructive

approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.”

Planning Policy Statement 9 - Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

Planning Policy Guidance 13 – Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should ‘not require developers to provide more spaces than they themselves wish’ and that ‘reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices’.

Planning Policy Guidance 17 (PPG17): ‘Planning for Open Space, Sport and Recreation’ sets out the Government's commitment to the need for sport and recreation development and seeks to deliver social and community inclusion, health and well-being and promotes sustainable development.

Paragraph 15 of PPG17 stipulates the approach local authorities should take when determining applications for development for playing fields. It states that in advance of an assessment of need, local authorities should give very careful consideration to any planning applications involving development on playing fields. Where a robust assessment of need in accordance with this guidance has not been undertaken, planning permission for such developments should not be allowed unless:-

- a) the proposed development is ancillary to the use of the site as a playing field (e.g. new changing rooms) and does not adversely affect the quantity or quality of pitches and their use
- b) the proposed development only affects land which is incapable of forming a playing pitch (or part of one)
- c) the playing fields that would be lost as a result of the proposed development would be replaced by a playing field or fields of equivalent or better quantity and quality and in a suitable location (see paragraph 13 or)
- d) the proposed development is for an outdoor or indoor sports facility of sufficient benefit to the development of sport to outweigh the loss of the playing field.

Paragraph 13 states that equally, development may provide the opportunity to exchange the use of one site for another to substitute for any loss of open space, or sports or recreational facility. The new

land and facility should be at least as accessible to current and potential new users, and at least equivalent in terms of size, usefulness, attractiveness and quality. Wherever possible, the aim should be to achieve qualitative improvements to open spaces, sports and recreational facilities. Local authorities should use planning obligations or conditions to secure the exchange land, ensure any necessary works are undertaken and that the new facilities are capable of being maintained adequately through management and maintenance agreements.

Paragraphs 16-17 of PPG17 stipulates the approach local authorities should take when determining applications for developments within open spaces. It states ‘local authorities should weigh any benefits being offered to the community against the loss of open space that will occur.’ In determining the application local authorities should; avoid any erosion of recreational function and maintain or enhance the character of open spaces; ensure that open spaces do not suffer from increased overlooking, traffic flows or other encroachment; protect and enhance those parts of the rights of way network that might benefit open space

and; consider the impact of any development on biodiversity and nature conservation.

Planning Policy Statement 23 – Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance Note 24 – Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

Planning Policy Statement 25 – Development and Flood Risk aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known

Until that revocation, the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies `saved' from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:

Policy 1 seeks to secure the delivery of sustainable development.

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with Hinckley being defined as a Sub-Regional Centre and the main focus for development at the local level. Policy 3 also states that in assessing the suitability of sites for development priority should be given to making the best use of previously developed land in urban or other sustainable locations.

Policy 22 sets out priorities for town centres and retail development and encourages LPAs to bring forward retail, leisure, office and residential development based on identified need.

Policy 43 sets out the regional transport objectives, supports the regions regeneration priorities and seeks to improve safety and reduce congestion.

Local Development Framework Core Strategy 2009

Policy 4 Development in Burbage requires transport improvements in line with policy 5, seeks to address the existing deficiencies in the quality, quantity and accessibility of green space and play provision, deliver the strategic green infrastructure detailed in policy 20 and deliver safe, high quality cycling routes as detailed within policy 5. The policy allocates land for the development of a minimum of 295 new residential dwellings, focused primarily to the north of Burbage adjacent to the Hinckley settlement boundary to support the Hinckley sub regional centre. It provides for development of 10 hectares of B8 employment land and 4 hectares of B2 employment land adjacent to the railway line as an extension to Logix Park. A proportion of the B2 employment should be for start up businesses as supported by the Burbage Parish Plan.

Policy 5 – Transport infrastructure in the sub-regional centre sets out transport interventions which are proposed to support additional development in and around Hinckley. This includes improvements to the A47/A5 Longshoot junction and establishes a requirement for developers to contribute to these improvements. It also states that the council will support the use of the canal system for cyclists, walkers and other leisure uses. Where appropriate, developers will be expected to provide developer contributions to improve path surfacing.

Policy 20 Green Infrastructure states that the implementation of the Green Infrastructure Network is a key priority for the Council and that the following strategic intervention to the Sketchley Brook Corridor will be supported: Increase the biodiversity interest of the west of Burbage by bringing parcels of land along the Brook's route that are currently in poor or unmanaged condition under suitable management. Develop the Sketchley Brook corridor as

an integral part of a wider access and green space project delivering recreational and biodiversity improvements along the east-west axis separating Hinckley and Burbage as part of a set of circular recreational routes.

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: Design and Siting of Development states that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area; ensure adequate highway visibility and parking standards; do not adversely affect the amenities of neighbouring properties; incorporate landscaping to a high standard; and would not be prejudicial to the comprehensive development of a larger area of land of which the development forms part.

Policy BE7: Development in Conservation Area seeks to ensure that all development either preserves or enhances the character of the Conservation Area.

Policy REC6 states that a strip of land either side of the canal will be protected in order to provide a recreational and wildlife corridor. Public access to the corridor will be improved. Planning permission will only be granted for development within this corridor if it is in connection with the use of the canal; is of a high standard of design and is in keeping with the character of the canal; is not detrimental to sites of nature conservation and it allows for public access.

Policy T5: Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development.

Policy T9: Facilities for Cyclists and Pedestrians encourages walking and cycling including facilities for cycle parking.

Policy NE2: Pollution states that planning permission will not be granted for development which would be likely to cause material harm through pollution of the air or soil or suffer material harm from either existing or potential sources of air and soil pollution.

Policy NE12: Landscaping schemes states that proposals for development should take into account the existing landscape features of the site and should make provision for further landscaping where appropriate.

Policy NE13: Protection of Surface Waters and Groundwater quality states that planning permission will not be granted for development which will adversely affect the water quality and ecology of watercourses and groundwater resources unless satisfactory arrangements are made for the disposal of foul sewage, trade effluent and surface water.

Policy NE15: Protection of River Corridors states that planning permission will not be granted for development in or adjoining a river or other watercourse corridor which would either have an adverse effect on its land drainage function or result in the loss of the recreational amenity and nature conservation value of the river or watercourse corridor.

Policy NE5 states that the countryside will be protected for its own sake. Planning permission will be granted provided that the development is important to the local economy and cannot be provided within or adjacent to an existing settlement and where the proposal does not have an adverse effect on the character and appearance of the landscape; is in keeping with the scale and character of existing buildings and the general surroundings, is effectively

screened by landscaping and will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

Supplementary Planning Guidance/Documents

The Council's Supplementary Planning Document (SPD): 'Play and Open Space' provides a framework for the provision of play and open space and financial contributions to support the requirements of Policies REC2 and REC3.

Appraisal:-

The principle of the development has been established by the granting of the outline application. Therefore the matters for consideration in this application are impact of development on the character of the area, the surrounding countryside and the Ashby Canal Conservation Area, residential amenity, highways, ecology, sustainable drainage and other matters,

Impact on the character of the area, the countryside and the Ashby Canal

Land to the western end of the site, adjacent to the Ashby Canal, falls outside the settlement boundary. Accordingly policy NE5 is relevant and the proposal should be considered against the requirements of this. Development is only acceptable in the countryside where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of existing buildings and the general surroundings; where necessary it is effectively screened by landscaping and other methods and that will not generate traffic which will exceed the capacity of the highway network or impair road safety.

In terms of the potential impact on the appearance and character of the landscape, the part of the site that falls outside the settlement boundary is bound by urban development on all sides. The railway line and residential development bound the site to the north, the remainder of the application site and existing employment uses bound the land to the east, the Severn Trent WWTW and Logix Park bound the site to the south, with the Nutts Lane industrial estate to the east, beyond the canal.

By virtue of the existing built development, the proposal is therefore not considered to have any adverse impact on the character and appearance of the landscape. The only connection to the countryside is via the canal, which abuts the sites western boundary. This is a designated Conservation Area and is afforded protection through Policy BE7 and REC6 of the adopted Local Plan. On land adjacent to the canal, the scheme proposes an area of open space comprising of new wetland habitats, water bodies including SUDS, Reed beds, additional planting and species rich grassland. This area of planting will result in a set back between the canal and the proposed development, retaining the areas existing open character at this point. These measures will not only soften the appearance of, and help screen, the built development but will also provide a gradual introduction to the development from the surrounding countryside. The Ashby Canal Association and Inland Waterways are supportive of the scheme, stating that the proposed landscaping will enhance the area, and the character and setting of the Ashby Canal Conservation area will be preserved by the scheme.

Overall the character of the area will be improved through the comprehensive landscaping proposed. Along the northern boundary, which abuts the railway line a buffer of structural woodland planting and a bund is proposed. This will both screen the development and provide an acoustic barrier. The opening of Sketchley Brook will provide a green corridor throughout the site, introducing new amenity areas and a cycle/footpath and the landscaping will screen the development from the WWTW to the south.

The redevelopment of the existing ponds will enhance this area and increase its biodiversity through the range of vegetation proposed creating a user friendly community facility, as opposed to an area of unmaintained vegetation and scrub land.

In-between the proposed fish pond and the gyratory roundabout, the Sketchley Brook is to be reinstated and a new landscape corridor is proposed. This will separate two residential elements of future built development, providing an attractive outlook, a public amenity and continuing the 'green character' of the development.

The green corridor will continue to the gyratory roundabout. This too will benefit from hard and soft landscaping and public art features, which will continue the theme of the development and will provide a 'statement' gateway into Burbage. Finally the development seeks to enhance the existing facilities at the Rugby Road park. New buffer planting is proposed along the boundaries of the park, which will reduce any impact upon the amenity of the adjacent residential properties and will further screen the facility from the railway line. Notwithstanding the comprehensive landscaping proposed, the Head of Corporate and Scrutiny Services (Green Spaces) and the Borough Council's Arboricultural Consultant have suggested that the percentage of trees within the proposed buffer planting along the north and north western boundaries be increased to 15%. This has been requested and further details will be reported as a late item. Further justification is also required as to the necessity of the tree pits proposed for all tree species. Their purpose is to stunt the growth of the trees through preventing root spread. These may be necessary where a tree is adjacent to built development, to reduce any consequential impact upon it; but is not considered justified in all cases (where no built development exists). Accordingly the applicant has been requested to justify the use of such. Any further information received will be reported as a late item.

In summary, the proposal will enhance the character of the area and as a result of the comprehensive landscaping proposed will integrate it with the existing landscape, in accordance with policy NE5 of the Local Plan. The development will be compliant with the intentions of policy 20 of the Core Strategy, which seeks to increase the biodiversity interest of the Sketchley Brook corridor and develop it as a recreational facility, and it will protect the Ashby Canal corridor and its function to provide a recreational and wildlife corridor. Finally the development will enhance the character of the area adjacent to the Ashby Canal Conservation Area. Accordingly there are considered to be no adverse impacts on the countryside or the character of the area.

Residential Amenity

The two areas which will be most affected by the development are the dwellings surrounding the existing Rugby Road park and those north of the railway line.

The development of the Rugby Road park will include the erection of a Multi Use Games Area (MUGA). This comprises an enclosed sports pitch with an all weather surface and can be used for a variety of activities. This will be positioned towards the southern boundary of the park. As the MUGA will be sited on an existing recreational facility, where an amount of noise and disturbance is expected, and given that the boundary to the south of the proposed MUGA is to be strengthened through additional landscaping, the associated noise impact will be mitigated against. Any additional noise is not considered to be of a level that would warrant refusal of the scheme.

The dwellings adjacent to the railway line are approximately 45 metres from the eastern section of the site and around 55 metres from the western section. To help mitigate against the impact upon these properties a landscaped buffer is proposed along the entire length of the northern boundary. The buffer will increase in height and width, in line with the indicative proposed building heights. Cross sections illustrating this have been submitted. By virtue of

this, the proposed development will be adequately screened from the adjacent residential properties and it is considered that there are no material impacts upon these properties residential amenity.

Highways

The suitability of the accesses to the site, from both Rugby Road and via Logix Park were approved within the outline application. The current application seeks approval for the main spinal road through the site, but does not include details of the residential access roads branching from this or the individual elements of the commercial development. The access road will travel in a westerly direction from the proposed gyratory roundabout on Rugby Road. This will be roughly parallel to the brook. A footpath and cycle way will run alongside this.

The road will route through the residential section of the development to a bus gate. This will restrict access between the commercial and residential element of the development to busses only. The commercial section of the development will be accessible to cars via Logix Park. This arrangement will ensure that the site does not become a cut through to Rugby Road and will prevent commercial traffic from disturbing the residential areas. Further, the bus route, cycle way and footpath will encourage alternative, more sustainable modes of transport. No comments have yet been received from the Director of Environment and Transport (Highways) as to the acceptability of the scheme. Any comments received will be reported as a late item.

Ecology

The Directorate of Chief Executive (Ecology) has commented that he is satisfied with the nature of the work and the species to be planted around the brook. However, clarification has been requested in respect of the specific type of Bluebell to be planted, with native species being preferred. Whilst these comments have been relayed to the applicant they are not vital to the acceptability of the scheme. Previous comments in respect of the carrying out of a water vole survey prior to works to the Brook remain relevant and have been communicated to the applicant. Finally the enhancements proposed along the Ashby Canal and the pond on site is considered acceptable.

The Environment Agency has raised concerns that public access to the proposed Canal Side Park, which is currently prevented, will disturb this wildlife habitat, this matter is being discussed between the relevant parties. The outcome of this will be reported as a late item. The Environment Agency has further stated that Mammal passage along the river corridor has been agreed on the two new bridge crossings and on the Rugby Road highway culvert alterations. This is to prevent mammals being forced out onto the road to access the upstream green open space. However the details of the pipe proposed are insufficient and its siting should be above the 1 in 100 year flood level. In addition it is suggested that appropriate fencing, to guide the animals between the pipes and keep them off the road, would improve usage of them. The further details have been requested and any amendments will be reported as a late item. The landscaping proposed throughout the site, including the canal side park will result in a valuable wildlife corridor and will create new habitats. Accordingly, subject to the requested details being deemed acceptable, there are considered to be no adverse impacts on Ecology which would justify refusal of the scheme.

Sustainable Drainage

A Flood Risk Assessment was submitted with the outline application. This contained a surface water drainage strategy including sustainable urban drainage principles (SUDS). The assessment concluded that as a result of the drainage scheme proposed and the opening up

of the brook that the development would remain outside of the 100 year plus climate change floodplain extents, and stated that the scheme would provide improvements to flood risk associated with the site and the wider area. Detail of the SUDS has been submitted with this application. A wetland and marsh habitat is proposed alongside the Ashby Canal, adjacent to the northern section of this will be a new sustainable drainage system including a balancing pond, reed beds and wet grassland. Further areas of wet grassland incorporating SUDS will be positioned at various intervals along the northern side of the Sketchley Brook. In addition to this the development will be comprehensively landscaped and new trees will be planted throughout. These features will both manage surface water and prevent flooding, and will also contribute to the aesthetics of the site and will have amenity value.

The Environment Agency has raised concerns in respect of the footpath which is to meander through the canal side park. It is stated that this area of land falls within the 100 year floodplain and thus could flood and become a danger to users of the path. The Agency states that historical public access has been prevented to this side of the canal for this reason. This issue has been discussed with the applicant and to ensure users of the footpath are aware that the land may be prone to flash flooding an advisory sign will be erected. The Environment Agency has been consulted on this proposal and the outcome will be reported as a late item. The Environment Agency have also requested a condition requiring submission of a scheme to treat and remove suspended solids from surface water runoff during construction works. This is required for there is a high risk of silt pollution to the Sketchley Brook, which may mean that the brook fails to meet its objective under the Water Framework Directive. This condition is therefore considered necessary and will be imposed.

Other Matters

Economy

This application, which is for the primary infrastructure, illustrates a commitment to develop the site within the near future. Once approval is in place other phases of the development will be able to be delivered. This will be beneficial to the local economy and community and will contribute towards the borough's housing numbers.

Footpath U46

The Director of Environment and Transport (Rights of Way) has commented that footpath U64 which runs partially across the site, has not been illustrated on the submitted plans. If the footpath cannot be accommodated in its current position, it has been suggested that an application will need to be made to the Borough Council for its diversion. The applicant has been informed of this and an update will be reported as a late item.

Sport England

Sport England have no objections to the works to upgrade Rugby Road Park, however they note that the proposed MUGA appears to be smaller on this application than on the outline application. In response to this, it must be noted that the outline application did not consider detail of the facilities to be provided on the recreational ground and any layout submitted was for indicative purposes only. The floor area of the MUGA measures 20 metres x 12 metres. This is considered sufficient to cater for the proposed development. The Head of Corporate and Scrutiny Services (Green Spaces) has not raised any concerns in respect of the size of the MUGA. Both Sport England and Green Spaces have raised concerns that the changing facility illustrated on the outline application has not been included on the current application. The applicant has been asked to clarify the situation in respect of the changing facility and this will be reported as a late item.

National Grid

Concerns have been raised that the works proposed, if not controlled, are likely to adversely impact on the safety and integrity of National Grid apparatus. A note to applicant will be added to ensure that prior to carrying out any excavation, trial holes must be dug to find the exact position of gas pipes, using recognised and agreed safe hand digging techniques.

Neighbour Concerns

In response to the issues raised within the letter of neighbour representation a condition was placed on the outline application requiring the submission of a scheme for the management of air quality to ensure that 'dust' as a result of the development will have no material impacts on surrounding residential properties. Concerns have also been raised in respect of vibration caused during construction. This concern has been raised with Head of Community Services (Pollution) and any comments will be reported as a late item.

Concerns have been raised in respect of the implications of the highway remodelling and impact on parking in the vicinity. During construction there will be disruption to the local highway network, however this will be temporary and in the long term the remodelling proposed should result in benefits to the highway network. This reserved matters application is not considered to result in any adverse impacts in terms of highway safety and is supported by the Highways Agency.

By virtue of the landscape bund proposed along the northern elevation, which will screen the development from the adjacent properties, there are considered to be no material impacts in terms of privacy.

Conclusion

The principle of a mixed use development on this site has already been established by the previous outline planning consent. The current reserved matters application is considered to be acceptable in terms of appearance, landscaping, highways and other matters, and does not give rise to any significant impacts upon residential amenity. Further, the comprehensive landscaping throughout the site and the use of SUDS will preserve the character of the Ashby Canal Conservation Area and will be beneficial in terms of ecology and drainage. In addition the enhancements to the Rugby Road parking and the provision of cycle ways and footways throughout the site will both encourage more sustainable modes of transport and be beneficial to the local community.

Accordingly, it is considered that this reserved matters application be recommended for approval, subject to the previous conditions attached to the outline application and additional conditions as suggested.

RECOMMENDATION:- Permit subject to the following conditions and subject to no adverse comments being received from Director of Environment and Transport (Highways) and Burbage Parish Council.

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, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and would not be to the detriment of visual or residential amenity or highway safety, will have no adverse impacts on the Ashby Canal Conservation Area or the surrounding countryside, or on the ecology of the

area. Therefore the development is considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, BE7, REC6, T5, T9, NE2, NE5, NE13, NE12, NE13 and NE15.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies 4, Policy 5 and Policy 20.

- 1 The development shall be carried out strictly in accordance with the conditions set out in the outline planning permission 10/00518/OUT except as may be modified herein.
- 2 The development hereby permitted shall be carried out in complete accordance with the details:-

Site Plans Drg Nos:- 8411-P010, 8411 - P011 received by the Local Planning Authority on the 25 October 2011.

Highway Works Drg Nos:- NTH/089 200 P9, NTH/089 400 P6, NTH/089 500 P4, NTH/089 206 P4, NTH/089 230 P5, NTH/089 430 P4, NTH/089 530 P2, NTH/089 207 P6, NTH/089 407 P11, NTH/089 507 P8, NTH/089 161 P2, NTH/089 565 P1, NTH/089 290 P2, NTH/089 409 P2, NTH/089 590 P2 received by the Local Planning Authority on the 25 October 2011.

Green Infrastructure Drg Nos:- 1033/08 10 - 14, 1033/08 16, 1033/08 20D, 1033/08 21F, 1033/08 22B, 1033/08 22B, 1033/08 23C, 1033/08 24C, 1033/08 25E, 1033/08 26B, 1033/08 30C, 1033/08 31B, 1033/08 32B, 1033/08 33B, 1033/08 34 B, 1033/08 35C, 1033/08 36 C, 1033/08 40A, 1033/08 41C, 1033/08 42B, 1033/08 43A, 1033/08 44A, 1033/08 45A, 1033/08 46A, 1033/08 47A, 1033/08 48A, 1033/08 49B, 1033/08 50A, 1033/08 51A Received by the Local Planning Authority on the 25 October 2011.

- 3 Prior to the commencement of the groundwork's within the Gateway Park the existing culverted watercourse must be physically located and marked out on the ground, on site, and the following easements applied:-
 - a) Tree pits should be located a minimum of the canopy/root extent away from the outside edge of the existing culverted watercourse.
 - b) Public Art and MUGA fencing foundations and any other built development must be located a minimum of 3 metres away from the outside edge of the existing culverted watercourse.
- 4 The development hereby permitted shall not be commenced until such a time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to and approved in writing by the Local Planning Authority. The scheme must then be implemented as approved.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

- 6 The tree protection shall be carried out in accordance with the details on Drg Refs:- 1033/08 numbers 10 – 14 and 16 and shall be retained throughout the course of the development. Any deviation from the submitted details shall be agreed in writing by the Local Planning Authority.

Reasons:-

- 1&2 For the avoidance of doubt and in the interests of proper planning.
- 3 To prevent avoidable damage to the existing culverted watercourse where it runs between the Brookside flood storage area and Rugby Road. To prevent a reduction in the structural condition and operational capacity of the culvert. To prevent an increase in flood risk to existing and proposed dwellings as a result of development within the Gateway Park. To facilitate future watercourse maintenance and improvement. In accordance with Planning Policy Statement 25.
- 4 There is a high risk of silt pollution to the Sketchley Brook as a result of the proposed development. This type of pollution could mean the Sketchley Brook fails to meet its objectives under the Water Framework Directive. The condition is therefore required in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure the protection of the trees throughout the course of the development in accordance with adopted Local Plan policy NE12 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 The applicant should refer to the letter received from the Environment Agency dated 6 December 2011 attached to the decision notice.
- 6 As recommended in previous ecological surveys, the brook must be subject to a water vole survey prior to works commencing.
- 7 The applicant should refer to the letter received from National Grid on the 6 December 2011 attached to the decision notice.

8 The applicant should refer to the letter received from Network Rail on the 23 November 2011 attached to the decision notice.

Contact Officer:- Eleanor Shaw Ext 5680

Item: 02
Reference: 11/00878/FUL
Applicant: Mr John Marston
Location: 6 Barwell Road Kirkby Mallory
Proposal: DEMOLITION OF EXISTING SHEDS AND ERECTION OF STORAGE BUILDING
Target Date: 27 December 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, representations have been received from 5 addresses.

Application Proposal

This is a full application for the erection of a garden building at 6 Barwell Road Kirkby Mallory. The proposed building is to be sited adjacent to the southern boundary of the rear garden. The building will have a footprint of 6 metres x 11.5 metres and a maximum height of 4.8 metres. The accommodation will be split over two floors. The first floor storage space will be in the eaves. An external stairway, leading to a first floor entrance is situated on the western gable end. Four rooflights are proposed in the northern facing roof plane. The northern elevation is subdivided into bays, two being open fronted. The remaining elevations are solid timber. It is proposed that the roof will be finished in either corrugated metal sheets or tiles.

The building is proposed to replace two existing sheds, one measuring 10ft x 20 ft x 8ft and the other having a footprint of 8ft x 6ft.

It is intended that the buildings will be used to store items such as:- surfboards and associated windsurfing equipment, gardening equipment, pedal cycles, freezers, children's toys and garden furniture.

This application follows a previously withdrawn scheme (11/00644/FUL) which was withdrawn on design grounds. The current scheme has reduced the overall height of the building by 1 metre and improved its design.

Following the number of neighbour representations received, it has been suggested to the applicant that the height of the building be further reduced. The applicant does not wish to reduce the height further as he needs the proposed space for storage.

For information if the height of the building was reduced by 0.8 metres the building would fall within the permitted development criteria and planning permission would not be required.

The Site and Surrounding Area

The site comprises the rear garden of 6 Barwell Road. This property has a far larger garden than those of adjacent properties. This is due to the fact that historically the application property bought a portion of the rear garden area previously belonging to 31 Church Road. Consequently the garden area extends in a southerly direction, along the rear boundaries of numbers 8 to 12 Barwell Road. The rear garden of the application property now has an area of approximately 518 square metres.

The land on the western side of Barwell Road rises steeply to the west, before levelling out at the portion of land on which the proposal will be sited.

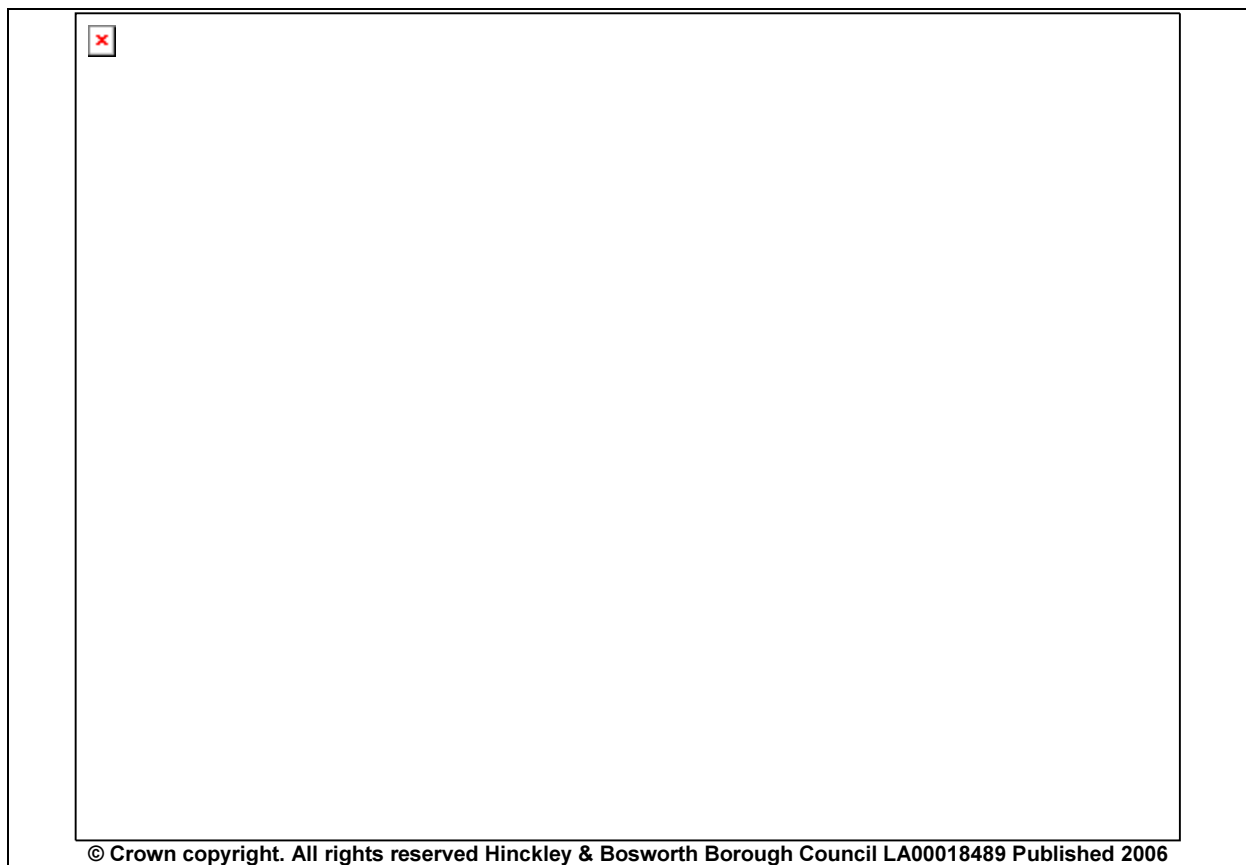
The site is bounded by a mix of close boarded fencing and vegetation. There are mature trees and vegetation along the southern boundary and part way along the western and eastern boundary. Further west of the site is a field and to the south is a coppice.

Technical Document submitted with application

None.

Relevant History:-

11/00644/FUL	Demolition of existing sheds and erection of storage building	Withdrawn	01.11.11
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Consultations:-

Five letters of representation received raising the following issues:-

- a) the building is too large and out of keeping with the character of the area
- b) concerns over the future use of the building
- c) queries over the construction methods and materials to be used
- d) impacts on the privacy of surrounding properties
- e) what will be stored in the building – justification for its size
- f) where is the ground level being taken from? As the site slopes
- g) the building will be dominant due to the increase in site level
- h) building will have an adverse impact on outlook of surrounding properties
- i) no first floor plan submitted.

At the time of writing no comments have been received from Peckleton Parish Council.

Policy:-

National Policy Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation, the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands.

There are no relevant policies in this case.

Local Development Framework Core Strategy 2009

Policy 13: 'Rural Hamlets' defines Kirkby Mallory as a 'Rural Hamlet' and as a result of the limited services, development will be confined to infill housing development, local choice schemes and conversion of agricultural buildings to employment uses.

Hinckley and Bosworth Local Plan 2001

The site is situated within the settlement boundary of Kirkby Mallory as defined within the adopted Local Plan.

Policy BE1: 'Design and Siting of Development' of the adopted Local Plan states that the Borough Council will seek to ensure a high standard of design in order to safeguard and enhance the existing environment and that planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to design, materials and architectural features, and is not prejudicial to the comprehensive development of a larger area and ; does not adversely affect the occupiers of neighbouring properties.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development

Other Material Policy Guidance

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Appraisal:-

The main considerations with regards to the proposal relate to the principle of development, siting and design, impacts on the amenity of surrounding residential properties and other issues.

Principle of Development

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

Siting and Design

The proposed building will be sited adjacent to the southern boundary of the site. To the south, east and west is mature vegetation. Accordingly the siting of the building will capitalise on the existing natural screening. The vegetation along the eastern boundary is less dense than that on the remaining boundaries, and thus there will be some fleeting views of the building from the rear gardens of numbers 10 and 12 Barwell Lane. However this said, views will only be of the gable end and on balance, due to the distance of the proposal from the rear of the adjacent properties, approximately 16.5 metres to the main rear elevation, and its position 3 metres from the eastern boundary of the application site, and the screening offered by the existing vegetation, the siting of the building is considered acceptable, and will have no significant detrimental impact in terms of visual amenity.

Since the original submission, the design of the proposal has been improved. Originally, a top heavy, steeply pitched roofed design was suggested. The current scheme has balanced the proportions of the roof and elevations and has reduced the height and footprint.

Impact upon Residential Amenity

Although the application does not constitute a new residential dwelling, guidance within the SPG on new residential development will be used to assess the acceptability of the distances between the proposed garden building and the surrounding residential properties, as the principles remain the same.

This guidance suggests, that to ensure there will be no material impacts upon the residential amenity of surrounding properties, in terms of overlooking, that in relation to single storey structures, a minimal distance of 12 metres between a habitable room window and a blank gable, and where there is a change in level, this distance should be increased. The residential dwellings most immediately impacted upon as a result of the proposal would be No's 10 and 12 Barwell Road, given their proximity to the development. The windows to the rear of these properties will be a distance of approximately 16.5 metres from the gable end of the proposal. In addition to this the building will also be screened from these properties by a 1.8 metre close boarded fence and vegetation approximately 3 metres in height. There is also a conservatory to the rear of number 12 Barwell Lane, however even with a projection of 4 metres, this would still be situated more than 12 metres from the proposal, and would therefore accord with guidance. Accordingly, although the application site is approximately 1 metre higher than the gardens of these properties, by virtue of the separation distance and the boundary treatment and the fact there are no windows proposed in the side elevation of the building, there are considered to be no material impacts on the residential amenity of these properties. These distances are also considered sufficient to ensure that the proposal will not result in significant overshadowing, will not be overbearing and there will not result in any material loss of light.

In respect of concerns raised about loss of privacy, the use of the development will be for storage and therefore will be uninhabited. There are 4 no. roof lights proposed in the northern roof slope of the building, and given the angle of the roof slope and a distance of approximately 47 metres to the nearest dwelling to the north No. 31 Church Road, it will not result in any significant overlooking.

This application has also reduced the overall height and footprint of the proposed storage building to address concerns raised in respect of residential amenity. In addition the field is bound by a mix of close boarded fencing and vegetation so that the development is screened from the surrounding neighbouring dwellings.

In summary, the proposal is considered to have no significant detrimental impact upon the amenity of neighbouring residents. As such the scheme is considered to be in accordance with Policy BE1 of the Local Plan.

Other Issues

The site level slopes in a south westerly direction, with the change in level being more gradual towards the western (rear) boundary of the application site. Accordingly the building will be situated on higher land than the properties on Barwell Lane (by approximately 1 metre). The land on which the building is to be sited is to be levelled. The building will be prominent; however by virtue of the fencing and landscaping along the site boundaries, which is approximately 3 metres in height, it will be partially screened and will have no material impacts in terms of visual amenity. However, to ensure this is the case, and to confirm the levels on site, a levels condition will be imposed, requiring the submission of the existing and proposed site level and the finished floor level of the proposal.

In terms of the use of the building, the applicant has provided details of the items to be stored, (outlined in the introduction). These items are considered to justify the size of the proposal.

No first floor plan has been provided, this has been requested and will be reported as a late item.

Conclusion

Although the proposed building is large, due to its positioning on the plot and by virtue of the mature landscaping along the sites boundaries, it is considered that there are no significant material impacts in terms of either visual or residential amenity or on the character of the surrounding countryside. Further, adequate justification has been provided to confirm the need for a building this size. Accordingly the building is considered compliant with Policy BE1 and is therefore acceptable.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission the proposed development would be in accordance with the development plan. By virtue of the siting and design of the proposal and the mature landscaping along the sites boundaries, there will be no adverse material impacts on either visual or residential amenity or on the character of the surrounding countryside. Therefore the proposal is considered acceptable.

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Refs:- Block Plan, Floor Plan, Revised Side Elevation with Stairs, Revised Side Elevation Plan, Revised Front Elevation Plan, Revised Rear Elevation Plan received by the Local Planning Authority on the 1 November 2011
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed storage building shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 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.

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 of the adopted Hinckley & Bosworth Local Plan.
- 4 In the interests of residential amenity to accord with Policy BE1 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 Shaw Ext 5680

Item: 03
Reference: 11/00899/EXT
Applicant: Mr And Mrs P Little
Location: 59 High Street Barwell
Proposal: EXTENSION OF TIME OF PLANNING PERMISSION 08/01023/CON FOR DEMOLITION OF EXISTING DWELLING AND GARAGE
Target Date: 2 January 2012

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it accompanies an application for full permission which is major development.

Application Proposal

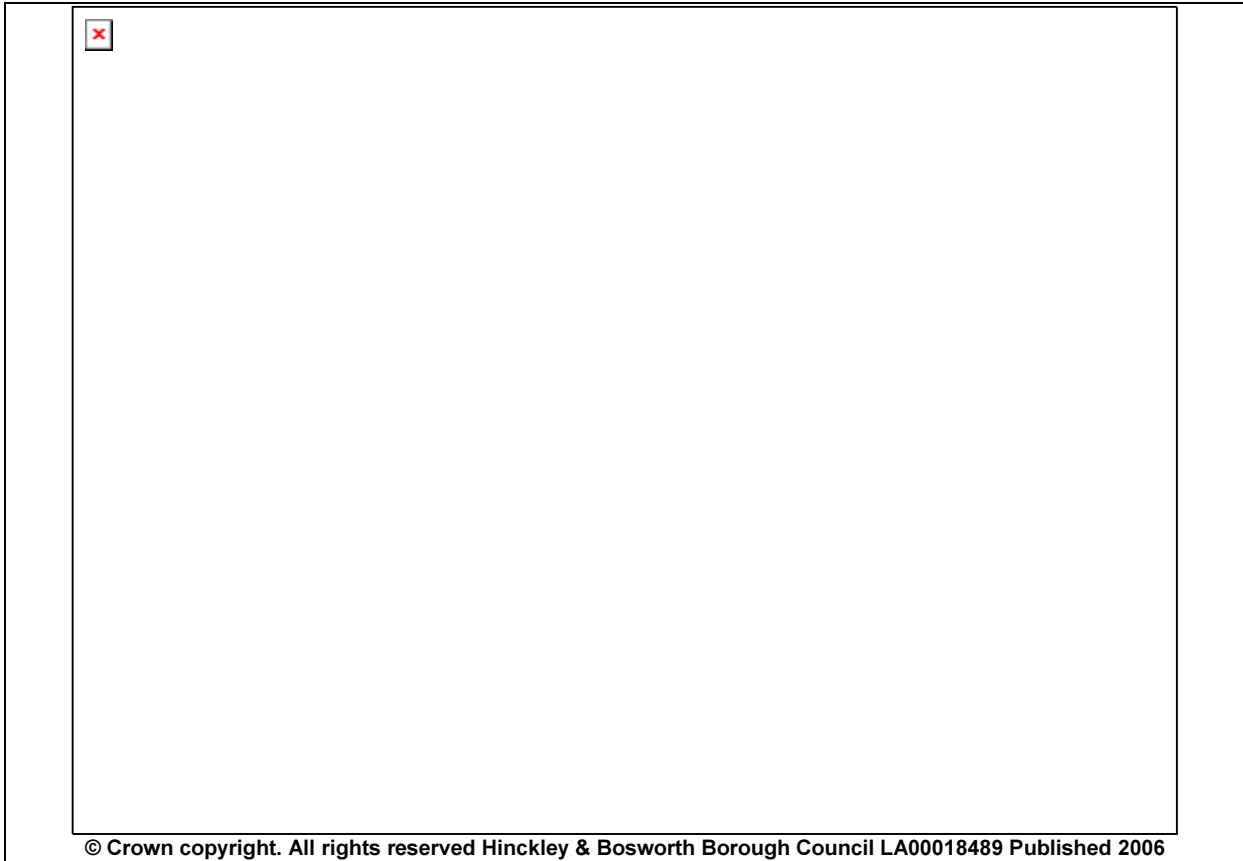
This is an application for an extension of time for extant planning permission (ref: 08/01023/CON) for Conservation Area Consent for the demolition of an existing dwelling and garage at 59 High Street Barwell. This application relates to the redevelopment of the site for retail and residential development which forms a separate application on this agenda. The previous application was a conservation area consent and expired on 17 December 2011. The extension of the time application has been made prior to the expiry date.

The Site and Surrounding Area

The application site is positioned on High Street, Barwell and consists of a two-storey frontage building, positioned at the back of pavement, currently used as a dwelling. Behind this is a large single storey building used for garden ornament manufacture with an ancillary sales element including areas of open storage of hard landscaping materials. To the south of the site are a pair of distinctive two storey semi-detached properties set back from the road. To the south of these and wrapping around the properties to bound the application site to the south-east is Barwell Church of England Junior School, with school playing fields forming the eastern boundary of the site. To the north of the site is Doctor Cookes Close which consists of detached and semi-detached bungalows. Opposite the application site on High Street are predominantly residential properties.

Relevant History:-

08/01023/CON	Demolition of existing dwelling and garage	Approved	17.12.08
08/01022/FUL	Demolition of existing workshop and erection of A1 retail store and ten apartments with associated car parking, landscaping and access	Approved	19.12.08



Consultations:-

No objection has been received from:-

The Environment Agency
Directorate of Chief Executive (Ecology).

No objection subject to conditions have been received from:-

Severn Trent Water Limited
Directorate of Chief Executive (Archaeology)
Director of Environment and Transport (Highways)
Head of Community Services (Pollution)
Barwell Parish Council.

Site notice and Press notice were displayed and neighbours notified.

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

- a) do not need any more shops or houses in the area
- b) would generate additional traffic going up and down High Street especially near the school resulting in a highway danger
- c) noise and disturbance whilst demolition is taking place
- d) detrimental affect on property value.

Policy:-

National Policy Guidance

Planning Policy Statement 5: Planning for the Historic Environment sets out the Government's objectives on the conservation of the historic environment. It states that Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the Government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan

- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies `saved` from the Local Plans by the Secretary of State remain extant for determining applications.

East Midland Regional Plan 2009

None relevant .

Local Development Framework Core Strategy 2009

None relevant.

Hinckley and Bosworth Local Plan 2001

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

Policy BE8 states that applications for the demolition of buildings in conservation areas will be refused except where it can be demonstrated that the loss of the building will not be detrimental to the character or appearance of the conservation area and that there are proposals for its replacement which would preserve or enhance the character or appearance of the conservation area.

Other Material Policy Guidance

Barwell Conservation Area Appraisal (2010) gives a brief history of the settlement and how the industries of the area influenced the built form. The appraisal describes the traditional material treatment and assesses High Street as generally traditional in character with buildings normally being two storey with the commercial properties concentrated towards Top Town.

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date". The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

Appraisal:-

The main consideration with regards to this application are whether there have been any material changes in planning policy since the previous application that would affect the determination of the application and if the originally imposed conditions or additional conditions are required.

Changes to Policy

Central Government Guidance

Since 2008 Planning Policy Guidance Note 15 and 16 (Planning and the Historic Environment and Archaeology and Planning respectively) have been replaced with Planning Policy Statement (PPS5) 5 Planning for the Historic Environment. This outlines the

Government's objectives that seek to protect the historical environment and the values and contribution it has to our cultural, social and economic life. Policy HE9.1 states that there should be a presumption in favour of designated heritage assets, and the more significant the asset the stronger the presumption should be. It continues to say that the significance of an asset can be harmed or lost through unsympathetic alterations.

At the time of the original application it was noted that 59 High Street was an old farm house that has suffered from inappropriate changes to its appearance over many years. It is therefore considered that the significance of the heritage asset to be lost has been diminished due to various unsympathetic and inappropriate alterations over the period of years. Its loss and replacement with a suitably designed building that reflects the built form is therefore considered acceptable. There are no other changes to policy that would influence this application and change the original decision.

Conditions

The conditions imposed on the previous conservation area consent and the reasoning for their imposition has been reconsidered. The consultation response from the Directorate of Chief Executive (Archaeology) and Director of Environment and Transport (Highways) repeats the recommended conditions in respect of building recording from the previous application given the historical nature of the site and parking provision during demolition to prevent on street parking problems.

The previously imposed conditions in respect of requiring a scheme of are all considered to remain relevant, reasonable and necessary in order to secure satisfactory development and it is considered that these should be carried forward to any new planning permission, with some minor changes.

Conclusion

The development plan has not changed in a manner, nor have there been any changes to other material considerations that would now lead to a difference conclusion being reached in the acceptability of the application. It is considered that all attached conditions for the reasons outlined above should be imposed. As such the extension of the conservation area consent is acceptable subject to the imposition of the planning conditions and subject to the extension for the full planning scheme also being acceptable.

RECOMMENDATION:- Grant Conservation Area Consent subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. By virtue of the number and nature of the alterations to the buildings to be removed and due to the design, appearance and massing of the proposed scheme the proposal is considered to preserve and enhance the character and appearance of the Conservation Area.

Hinckley and Bosworth Local Plan (2001):- Policy BE8.

- 1 No demolition hereby permitted shall be undertaken unless and until full planning permission has been obtained for the redevelopment of the site and a binding contract for carrying out of the works of re-development of the site pursuant to that

planning permission has been entered into and the terms of which have been approved by the Local Planning Authority.

- 2 For the period of the demolition of the buildings, vehicle parking facilities shall be provided within the site and all vehicles associated with the demolition shall be parked within the site.
- 3 Demolition shall not take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of historic building recording. This work shall be conducted in accordance with a written scheme of investigation, which has been submitted and approved in writing by the Local Planning Authority.
- 4 The demolition hereby permitted shall be carried out in complete accordance with the submitted application details, as follows: 5625-430.P1 (1:100) Elevations of existing buildings on the site, 5625-121.P1 (1:200) Existing site layout.

Reasons:-

- 1 To comply with the requirements of Section 74 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 To ensure that adequate off-street parking provision is made to reduce the possibilities of the demolition of the site leading to on-street parking problems in the area during demolition to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 3 To ensure satisfactory recording of the building to comply with Policy BE8 of the adopted Hinckley and Bosworth Local Plan.
- 4 For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant:-

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

Contact Officer:- Sarah Fryer Ext 5682

Item: 04

Reference: 11/00901/EXT

Applicant: Mr And Mrs P Little

Location: 59 High Street Barwell

Proposal: EXTENSION OF TIME OF PLANNING PERMISSION 08/01022/FUL FOR DEMOLITION OF EXISTING WORKSHOP AND ERECTION OF A1 USE RETAIL STORE AND TEN APARTMENTS WITH ASSOCIATED CAR PARKING, LANDSCAPING AND ACCESS

Target Date: 13 February 2012

Introduction:-

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

Application Proposal

This is an application for an extension of time for extant full planning permission (ref: 08/01022/FUL) for the demolition of existing workshop and erection of A1 use retail store and ten apartments with associated car parking, landscaping and access. The previous application was a full submission and expired on 19 December 2011. This extension of the time application has been made prior to the expiry date.

The proposed A1 retail store is sited at the back edge of the pavement with a two storey 'L' shaped apartment block to the rear of the site positioned along the eastern and southern boundary. The application proposes to upgrade the existing access.

The Site and Surrounding Area

The application site is positioned on High Street, Barwell and consists of a two-storey frontage building, positioned at the back of pavement, currently used as a dwelling. Behind this is a large single storey building used for garden ornament manufacture with an ancillary sales element including areas of open storage of hard landscaping materials. To the south of the site are a pair of distinctive two storey semi-detached properties set back from the road. To the south of these and wrapping around the properties to bound the application site to the south-east is Barwell Church of England Junior School, with school playing fields forming the eastern boundary of the site. To the north of the site is Doctor Cookes Close which consists of detached and semi-detached bungalows. Opposite the application site on High Street are predominantly residential properties.

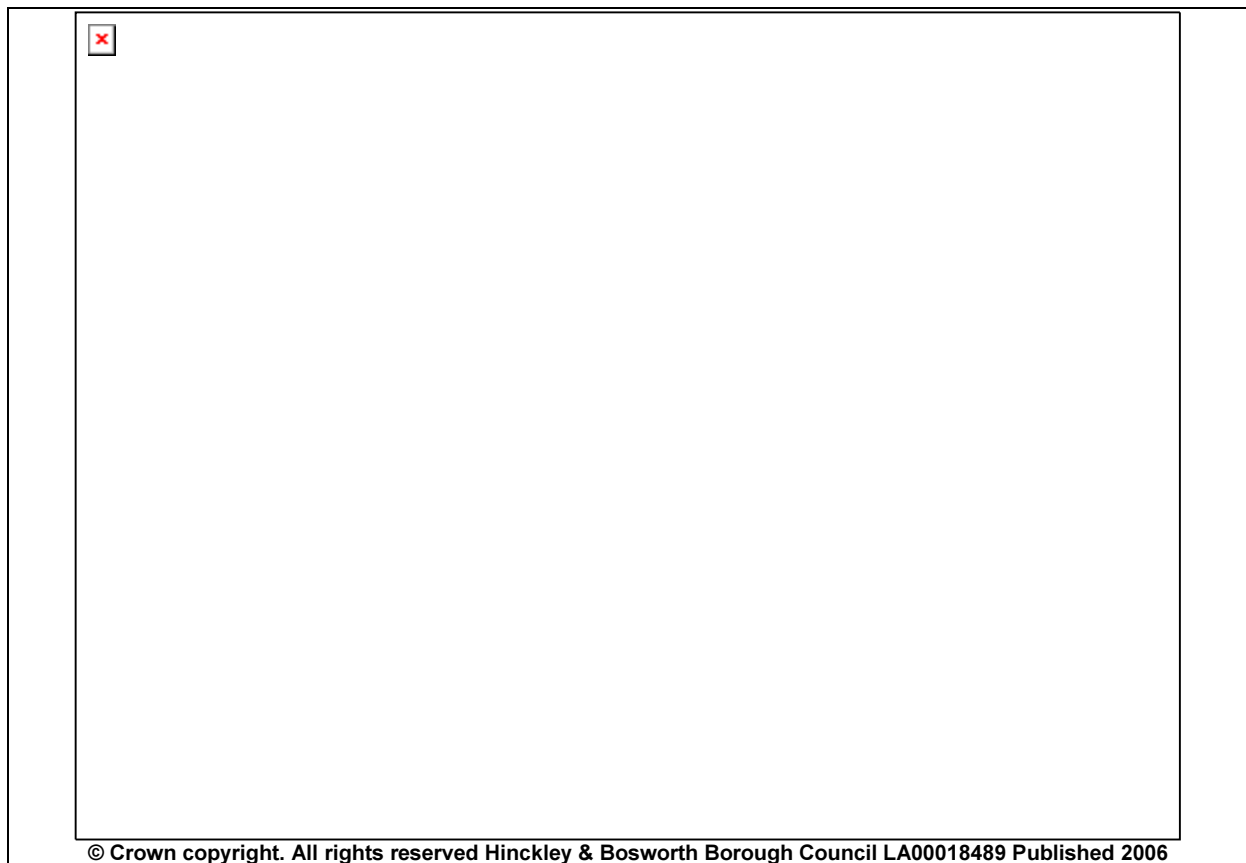
Technical Document submitted with application

The application has been accompanied by a bat survey which sought to establish if any of the buildings to be demolished by the application formed roosts, which are protected under British Law. The report describes the buildings on site internally and assesses their potential for housing bats. No emergence survey was considered necessary due to the lack of potential roost opportunities for the bats. No bats or other protected species were found on the site and it was concluded that the site did not form a suitable habitat. The report

concluded with recommendations reminding the applicant of their responsibilities should bats or any other protected species be found during the works.

Relevant History:-

08/01023/CON	Demolition of existing dwelling and garage	Approved	17.12.08
08/01022/FUL	Demolition of existing workshop and erection of A1 retail store and ten apartments with associated car parking, landscaping and access	Approved	19.12.08



Consultations:-

No objection has been received from:-

The Environment Agency
Directorate of Chief Executive (Ecology).

No objection subject to conditions have been received from:-

Severn Trent Water Limited
Directorate of Chief Executive (Archaeology)
Director of Environment and Transport (Highways)
Barwell Parish Council
Head of Community Services (Pollution).

Site notice and Press notice were displayed and neighbours notified.

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

- a) do not need any more shops or houses in the area
- b) would generate additional traffic going up and down High Street especially near the school resulting in a highway danger
- c) unfair competition on existing retail outlets in Barwell.

Policy:-

National Policy Guidance

Planning Policy Statement 1 - Delivering Sustainable Development sets out the Government's objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

Planning Policy Statement 3 - Housing, encourages the use of previously developed land within urban areas in preference to the development of greenfield sites for housing. The Policy states that good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities. Paragraphs 40 to 41 states that at least 60 per cent of new housing should be provided on previously developed land and that a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.

The statement was revised in June 2010 to remove private residential gardens from the definition of previously developed land and deleting the indicative minimum density of 30 dwellings per hectare.

Planning Policy Statement 4: Planning for Sustainable Economic Growth. Sets out the Government's national policies for economic development including development within the B Use Classes, public and community use and main town centre uses. This seeks to focus new economic growth in existing centres.

Planning Policy Guidance Note 13 - Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices'.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the Government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

Policy 43 seeks to improve highway safety across the region and reduce congestion.

Local Development Framework Core Strategy 2009

Policy 3 - Development in Barwell supports the regeneration of Barwell through ensuring there is a wide range of employment opportunities within Barwell and the provision of additional retail floor space within the defined Barwell local centre.

Policy 19 - Green Space and Play Provision sets out the standards to be used in relation to green space and play provision within the Borough.

Policy 24 - Sustainable Design and Technology requires residential development in Hinckley, Burbage, Barwell and Earl Shilton to be constructed to a minimum of Code 3 from the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: Design and Siting of Development states that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area; ensure adequate highway visibility and parking standards; do not adversely affect the amenities of neighbouring properties; incorporate landscaping to a high standard; and would not be prejudicial to comprehensive development of a larger area of land which the development forms part.

Policy BE7: Development in Conservation Areas states that the primary planning policy is the preservation or enhancement of the special character or appearance. Planning permission which would harm that special character or appearance will not be granted.

Policy Retail 1: General Retail Strategy - states that planning permission will be granted for new retail development within Hinckley Town Centre and existing, or proposed, local shopping centres.

Policy Retail 7: Local Shopping Centres - states that outside Hinckley Town Centre planning permission will be granted for retail development to serve the local community provided that development does not have an adverse effect on the amenities enjoyed by occupiers of adjoining residential property and the general character of the locality; involve the intensified use of an access or the creation of a new access which would be inadequate in terms of width and/or visibility to the detriment of highway safety; and result in under provision of parking.

Policy IMP1 requires all new development to make a contribution towards the provision of the necessary on-site and off-site infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Policy REC3 New Residential Development - Outdoor Play Space for Children requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Policy RES5: Residential Proposals on Unallocated Sites refers to residential proposals on unallocated sites and states that residential proposals on such sites will be granted planning permission if they lie within the boundaries of a settlement area and the siting, design and layout does not conflict with the relevant plan policies.

Policy T5: Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development.

Policy T9: Facilities for Cyclists and Pedestrians encourages walking and cycling including facilities for cycle parking.

Policy NE2: Pollution states that planning permission will not be granted for development which would be likely to cause material harm through pollution of the air or soil or suffer material harm from either existing or potential sources of air and soil pollution.

Policy NE12: Landscaping Schemes states that proposals for development should take into account the existing features of the site and make provision for further landscaping where appropriate.

Policy NE14: Protection of Surface Waters and Groundwater Quality states that planning permission will not be granted for development proposals which will adversely affect the water quality and ecology of watercourses and groundwater.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance (SPG): 'New Residential Development' provides a series of standards that new residential development should achieve in respect of density, design, layout, space between buildings and highways and parking.

The Council's Supplementary Planning Document (SPD): 'Play and Open Space' provides a framework for the provision of play and open space and financial contributions to support the requirements of Policy REC3.

The Council's Supplementary Planning Document (SPD): 'Sustainable Design' aims to support and encourage developers and applicants in delivering homes in line with national best practice guidance primarily the Code for Sustainable Homes for housing and delivery of sustainable development through the planning system.

Other Material Planning Guidance

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date". The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

Appraisal:-

The main consideration with regards to this application are whether there have been any material changes in planning policy since the previous application that would affect the determination of the application and if the originally imposed conditions or additional conditions are required.

Changes to Policy

Central Government Guidance

Since 2008 National Planning Policy Statements have been both issued and amended on a number of topics. Planning Policy Statement 3 (PPS3) was revised on 9th June 2010 and removed private residential gardens from the definition of previously developed land and removed the national indicative minimum density of 30 dwellings per hectare.

The subsequent letter from the Chief Planning Officer on 15th June 2010 makes clear these amendments provide Local Authorities the opportunity to prevent over development and to determine for themselves the best locations and types of development. It is also interpreted that the changes are to primarily prevent over development within residential areas that are considered out of character.

The proposed development is two storey in scale, as is the majority of the surrounding development within the vicinity of the application site. Whilst there are few flats within the surrounding area, the scale and number of flats is not considered to dominate the surrounding area, however would add to the mix of house types within the area. The open parking area to the front of the residential block and amenity space and garden areas around the proposed development maintains the balance of the built form and prevents the site being overdeveloped. It is considered that proposal would not harm the character of the area.

The application site measures 0.25ha and therefore the site would have a density of 40 dph. Given that the site is located near the centre of Barwell Town Centre where a higher density of development is expected, it is not considered that this is excessive or out of character with the surrounding area.

Based on the above it is considered that the character of the area would not be compromised and it is considered that the scheme would be in general conformity with PPS3. Whilst amendments have been made to PPS3, they do not raise issues that would now imply that the development would be unacceptable.

Regional Policy

In 2008 the scheme would have also been considered against Leicester, Leicestershire and Rutland Structure Plan which has since been superseded by the Regional Spatial Strategy for the East Midlands. While this high level policy has changed it is considered that the scheme would also be in accordance with the broad policies of the RSS which still seek to direct new development to urban areas.

Therefore while the development plan has changed since the original decision was reached it does not lead to a different conclusion on the acceptability of the application.

Core Strategy

The Local Development Framework Core Strategy was adopted in December 2009 and of relevance to the scheme is Policy 3. This is an overarching policy to guide development in Barwell and supports the regeneration of the town through supporting the delivery of a minimum of 45 new residential dwellings within Barwell and by providing additional retail floor space within Barwell. As such, this proposal is considered in accordance with Policy 3.

Policy 24 requires all new dwellings in Hinckley to be built to a minimum of Code 3 of the Code for Sustainable Homes. The Council is actively applying the requirements of Policy 24 unless material considerations indicate that it cannot be reasonably achieved. In this case

there are no arising material considerations that suggest that Code Level 3 compliance cannot be achieved, as such this can be requested through the imposition of a planning condition.

Changes to Conditions

Given that the development plan and other material considerations have not changed in a manner that would now lead to the application being refused, the other consideration is whether additional conditions should be applied or existing ones removed.

Since the determination of the previous application the Local Development Framework Core Strategy has been adopted (2009) and as discussed above Policy 24 requires that all new residential development within Hinckley, Burbage, Barwell and Earl Shilton will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. As such it is considered necessary to attach an additional condition to secure this.

Several conditions imposed on the original application have been tested at appeal and found not to meet the statutory tests and therefore are not considered to be valid conditions. These include conditions 2 and 6 that requested the applicant to notify the planning authority when site investigation works were being undertaken and development was commencing. These conditions originally requested by Environmental Health Officers do not serve any useful planning purpose. Condition 17 of the 2008 application required visibility spays to be provided prior to the use of the development commencing. These splays crossed third party land and were not within the control of the applicant are therefore unreasonable. It is considered that without these conditions the application is still acceptable.

Financial Contributions

Since the determination of the previous application the Community Infrastructure Levy Regulations (CIL) 2010 have been brought out. This requires the Borough Council to ensure that requested contributions are necessary, directly related and fairly and reasonably related in scale and kind the development proposed.

Play and Open Space Contributions

The site is located within 400m of the recreational sites at The Common (Neighbourhood Park) and Boston Way (Local open Space). The proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with policy REC3 supported by the Council's SPD on Play and Open Space.

The request for any developer must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL).

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

The quality of space has been considered within the Quality and Accessibility Audit of 2007 which awarded The Common a score of 31% and Boston Way 60%. The Play and Open Space SPD sets out how the contribution is calculated in proportion to the size and scale of the development. As the scheme results in a net gain of 9 dwellings a total figure of £11,257.20 is sought; £7,360.20 for provision and £3,897.00 for maintenance.

Information detailing how the Parish Council seeks to improve the play and open space facilities has been requested and will be reported as a late item. Given the relatively high score within the audit of the Boston Way Recreational site it is considered that the contributions should go towards improving facilities on The Common. It is considered that whilst Barwell has a sufficiency of open space, the residential element of the proposal would create additional wear and tear on existing facilities. 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 reasonable relates in scale and kind to the proposal and a contribution is justified in this instance.

The contribution will be secured through a Unilateral Undertaking.

Other Considerations

Concerns have been raised regarding unfair competition and the impact the proposed retail store would have on the other retail stores within Barwell. This is not a material planning consideration that can influence the determination of this application.

Objections have also been received with regard to the increased traffic the proposal would generate on High Street especially with the proximity to the school. The traffic impact was considered at the time of the initial application and there are no changes to either highways policy or in the site characteristics that would result in a different determination to this application.

Conclusion

The development plan has not changed in a manner, nor have there been any changes to other material considerations, that would now lead to a different conclusion being reached to the acceptability of the application. It is considered that subject to all remaining conditions being imposed unless detailed above and subject to the signing of an Agreement under S106 of the Town and Country Planning Act the extension of the planning permission for a further 3 years is acceptable.

RECOMMENDATION:- That subject to a Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide the financial contributions towards the provision and maintenance of play and open space, the Head of Planning shall be granted delegated powers to grant planning permission subject to the conditions below. Failure to complete the said agreement by 13 February 2012 may result in the application being refused.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. By virtue of no material changes in planning policy or other material planning considerations that would result in a different conclusion being reached in the determination of the application. The proposed retail and residential development is therefore considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, BE7, Retail 1, Retail 7, IMP1, REC3, RES5, T5, T9, NE2, NE12 and NE14.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies 3, 19 and 24.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the details submitted for planning application 08/01022/FUL, as follows: drawing numbers 5626-120.P20, 5625-121.P1, 5625-122.P8, 5625-200.P4, 5625-220.P8, 5625-221.P3, 5625-420.P10, 5625-421.P12, 5625-422.P6, 5625-430.P1, 5625-800.P3 and documents:- Supporting Planning Statement 05.122/CC (October 2008), 3D Visualisation (16 October 2008), Background Noise Survey (21 October 2008), Environmental Desk Study (9 December 2008), Design and Access Statement (Rec. 23 October 2008) and Transport Assessment (October 2008) and bat survey submitted on planning application file 11/00901/EXT dated November 2011.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed retail store, apartments, and bin and cycle stores 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 approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 5 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 6 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) site levels (Including finished floor levels)
 - c) hard surfacing materials
 - d) minor artefacts and structures (e.g. refuse or cycle storage, lighting, litter bins etc.)
 - e) planting plans
 - f) written specifications
 - g) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - h) implementation programme.
- 7 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

- 8 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 9 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
- 10 The proposed access layout, including width and radii, as shown in the submitted drawing no 5655 -122.P7 and the turning area as shown in the Swept Path Analysis Plans 070201 SP38 - SP39 shall be provided before first use of the development hereby permitted. The access drive and turning area once provided shall be so maintained at all times.
- 11 The parking for the retail store shall be provided before the retail store is brought into use and shall thereafter permanently remain available for such use.
- 12 The car parking shown within the curtilage of the site for the residential development shall be provided before the apartments are first occupied and shall thereafter permanently remain available for such use.
- 13 Before first use of the development hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and shall be so maintained thereafter.
- 14 Before the retail store hereby permitted is first used, cycle parking provision shall be provided to the satisfaction of the Local Planning Authority and once provided shall be maintained and kept available for use in thereafter.
- 15 Before the apartments hereby permitted are first used, cycle parking provision shall be provided to the satisfaction of the Local Planning Authority and once provided shall be maintained and kept available for use thereafter.
- 16 Prior to the development being brought into use the existing on street parking bays outside of No. 53 High Street shall be permanently removed and the applicant shall seek to implement a no waiting at any time traffic regulation order to replace them. 2 replacement parking bays shall be provided within the curtilage of the development site and shall thereafter remain available for general use.
- 17 No gates shall be erected to the vehicular access.
- 18 Development shall not begin until a scheme for protecting the existing and proposed dwellings from noise from the operation of the retail store has been submitted to and approved by the Local Planning Authority; and all works which form part of the noise mitigation scheme shall be completed before any of the permitted dwellings are first occupied.
- 19 The development hereby permitted shall not be commenced until such time as a scheme to install trapped gullies has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

- 20 No development approved by this permission shall be commenced until such time as a scheme for the monitoring of landfill gas has been submitted to and agreed in writing with the Local Planning Authority. The development and monitoring of landfill gas shall be carried out in accordance with the agreed details.
- 21 The store shall not be open to the public outside the following times:- 7am to 11pm.
- 22 No deliveries shall be taken at or dispatched from the site outside the hours of 8am to 8pm.
- 23 Before the start of the development, facilities shall be provided and maintained during the carrying out of the development to enable vehicle wheels to be washed prior to the vehicle entering the public highway. Such facilities shall be used as necessary to prevent extraneous material being carried out onto the highway.
- 24 No development shall commence unless and until a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the dwelling hereby approved can be constructed to a minimum of Code Level 3 has been provided to the Local Planning Authority. In addition, prior to the first occupation of the dwelling hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.

Reasons:-

- 1 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 of the adopted Hinckley & Bosworth Local Plan.
- 4&5 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 6 To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan
- 8 To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 10 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 11&12 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 13 In the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14&15 In the interests of the sustainability of the development and to encourage alternative transport choice in accordance with Policy T9 of the adopted Hinckley and Bosworth Local Plan.
- 16 To ensure that residents and visitors will not park on High Street within the required visibility splay in the interests of highway safety and to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 17 In the interests of road safety and to allow access to the relocated spaces to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 18 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 19 To prevent pollution of the water environment to accord with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 20 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 21&22 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 23 In the interests of highway safety to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 24 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.

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:- Sarah Fryer Ext 5682

Item: 05

Reference: 11/00808/FUL

Applicant: Benchmark

Location: 5 Wharf Yard Hinckley

Proposal: DENTAL LABORATORY AND CLINIC WITH TWO OFFICE UNITS AND NINE APARTMENTS WITH VEHICULAR ACCESS AND PARKING

Target Date: 4 January 2012

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has generated five or more objections.

Application Proposal

Full planning permission is sought for the part demolition of three, single storey industrial units and the erection of nine apartments, two offices and a dental laboratory, clinic and office.

Members are advised that this application should be read in conjunction with application ref 11/00809/CON which seeks Conservation Area Consent for the part demolition of the existing industrial, dental laboratory and clinic buildings.

The application proposes a three and a half storey building consisting of two offices, undercroft car parking, clinic and laboratory at ground floor, with the dental offices and four apartments located at first floor. At second and third floor (roof space), an additional five apartments are proposed with lounge and kitchens at second floor, with bedrooms above within the roof space.

The scheme proposes 1, one bedroomed apartment, 7, two bedroomed apartments and 1, three bedroomed apartment.

The building proposes to use materials to match the adjacent residential premises. The scheme proposes two areas of planting and an amenity grass area. The applicant has confirmed that a management company will maintain all of the shared areas.

Following concerns expressed by officers the applicant has provided amended plans showing:-

- a) obscuring glazing to windows
- b) increase in dimensions of car parking spaces, and additional disabled car parking spaces and cycle storage
- c) positioning of the commercial waste bins.

Re-consultation has been undertaken with the Director of Highways, Transportation and Waste Management (Highways).

The Site and Surrounding Area

The site is accessed from the Coventry Road between the Port House and the Wharf Inn Public House. The scheme proposes brick pillars and a bin store to the driveway accessed from Coventry Road.

The access through the site to Hinckley Wharf is currently occupied by a gated entrance and the scheme proposes to relocate this access by approximately 0.7-0.9 metres with new brick pillars, and re-hanging the existing gates. A plaque is also proposed to be displayed within the brick pillar to illustrate the clubs associated with Hinckley Wharf.

Three single storey industrial units currently accommodate the site, which are proposed to be predominantly demolished but the rear wall retained.

Land levels differ considerably; the access slopes down from Coventry Road, the site itself is predominantly flat, whilst the land to east of the site is approximately 2.5 metres higher, thus creating a three and half storey development to the front elevation and two and half storey development to the rear elevation.

The adjacent site to the north, referred to as 'Phase I' was subject to an application for six apartments which was approved in 2006 (06/00757/FUL) and has subsequently been implemented. To the east of the site is a commercial yard, and parking and garaging area for a detached bungalow at 314b Coventry Road located to the south east. To the south of the site the access continues to the branch of the canal.

The site is located within the settlement boundary of Hinckley and within the Ashby de la Zouch Canal Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Documents submitted with application

A Design and Access Statement which states that the main issues in arriving at the design for this proposed development were to ensure sympathetic integration into the Conservation Area while, at the same time, meeting planning policies for employment and housing and considering the wider picture, particularly views from the south along the north/south access of the arm of the Wharf towards the site, and the associated environmental improvement, which would result from the development of the south end of Wharf Yard within the Applicant's control.

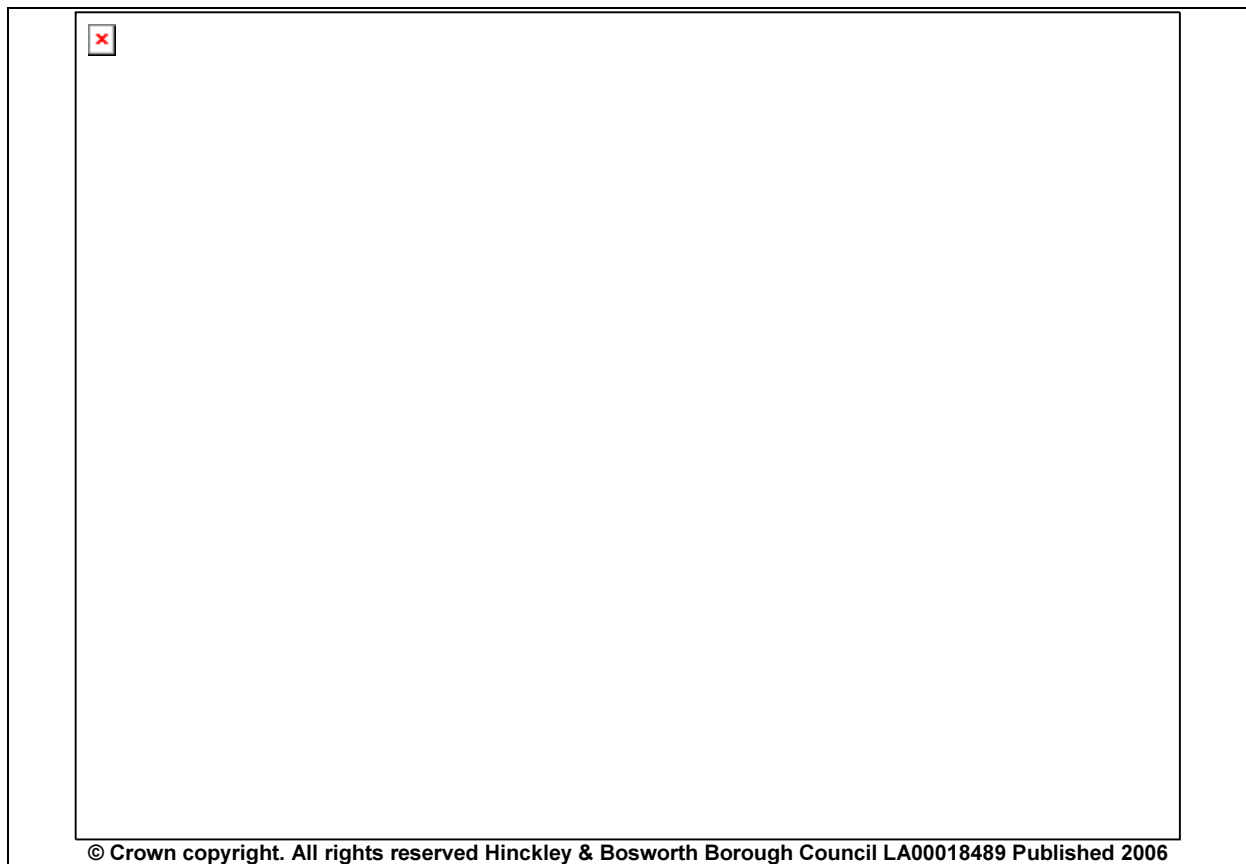
A Biodiversity Survey confirms that there are no significant wildlife habitats or features and that the proposed development will not have any impact on wildlife and biodiversity.

A Heritage Statement which details the surrounding development and states that the form of the development has taken shape as a result of the discussions and consultation for Phase I of the development.

Relevant History:-

11/00809/CON	Part demolition of existing buildings to facilitate development	Pending
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11/00237/BOC	Enforcement Enquiry	Pending this decision	
08/00136/FUL	Dental laboratory and clinic with 2 no. office units and 9.no apartments with vehicular access and parking	Approved	11.04.08
08/00148/COU	Temporary dental clinic	Approved	11.04.08
06/00757/FUL	Demolition of existing workshop and offices and erection of 6 residential units	Approved	06.09.06



Consultations:-

No objection has been received from:-

- Ashby Canal Association
- British Waterways
- The Inland Waterways Association
- Directorate of Chief Executive (Archaeology)
- Head of Community Services (Pollution)
- Head of Community Services (Land Drainage)
- Head of Business Development and Street Scene Services (Waste Minimisation).

No objection subject to conditions have been received from:-

Severn Trent Water Limited
Director of Environment and Transport (Highways).

Site notice and Press notice were displayed and neighbours notified.

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

- a) moving the location of the gates is totally unacceptable
- b) the plans show a brick entrance to the site which on previous plans had a lockable barrier- if this is allowed in future it would cause implications for emergency access
- c) no mention of any action to provide support for the new road, supporting of the bank or re-assurance that the present usage of the road would be maintained
- d) requirement for large lorries to gain access to the site to the south
- e) width of the access road is inadequate for emergency vehicles, lorries etc
- f) increased usage of the road could prevent access for emergency vehicles
- g) no provision for street lighting
- h) turning radius is inadequate
- i) road surface is not adequately defined
- j) the area owned by the pub is shown as enclosed
- k) we would request that the plans are checked for accuracy; the proposed outline of the developments on site and on the site location plan do not match
- l) who owns the road in front of Windy Ridge Cottage?
- m) measurements of the car parking spaces is questionable
- n) the proposals encroach on a legal right of access
- o) the roof and surface water drainage is inadequate and will lead to surface water flooding
- p) the proposals involve changes to private property for which there is no consent'
- q) there is a wall positioned on a rockery
- r) the bins outside Windy Ridge will in the summer months, smell and attract vermin
- s) noise will increase
- t) insufficient parking.

The consultation period remains open at the time of writing and closes on 22 December 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. This document states at paragraph 12 that good design is fundamental to the development of high quality new housing. Paragraph 13 reflecting policy in PPS1 states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted. Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well

integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access.

PPS3 has very recently been updated to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is no longer a national indicative minimum density to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

The PPS states the need for Local Planning Authorities to set out policies and strategies for delivering housing provision which will enable continuous delivery of housing for at least 15 years. Further to this, sufficient specific deliverable sites to deliver housing in the first five years should be identified. Paragraph 71 of PPS3 states that where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing having regard to the policies within the PPS and particularly paragraph 69 which lists the following considerations:-

- a) Achieving high quality housing
- b) Ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people
- c) The suitability of a site for housing, including its environmental sustainability
- d) Using land effectively and efficiently
- e) Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives e.g. addressing housing market renewal issues.

Planning Policy Statement 4 (PPS4): 'Planning for Sustainable Economic Growth' in policy EC2.1(d) seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and reflects the different location requirements of businesses, such as the size of site required, site quality and access.

Planning Policy Statement 5 (PPS5): 'Planning and the Historic Environment' sets out how applications affecting heritage assets should be determined; it requires Local Planning Authorities to assess impacts on the historic environment.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' requires Local Authorities to fully consider the effect of planning decisions on biodiversity including protected species and biodiversity interests in the wider environment. The broad aim is that development should have minimal impacts on biodiversity and enhance it where possible.

Planning Policy Guidance Note 13 (PPG13): 'Transport' set out the Government's commitment to transport and planning and confirms that highway safety is a paramount consideration in the determination of any planning application. Paragraph 6 states that Local Planning Authorities should accommodate housing principally within urban areas and promotes accessibility to services by public transport, walking and cycling and reduces the need to travel. Paragraph 29 states that when thinking about new development the needs and safety of the community should be considered and addressed in accompanying Transport Assessments.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the Government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

Local Development Framework Core Strategy 2009

Policy 1: 'Development in Hinckley' seeks to diversify the existing housing stock in the town centre to cater for a range of house types and sizes, to ensure there is a range of employment opportunities within Hinckley and to allocate land for new office development within or adjoining the Hinckley Town Centre Area Action Plan boundary.

Policy 19: 'Green Space and Play Provision' seeks to ensure that all residents have access to sufficient, high quality and accessible green spaces and play areas.

Policy 24: 'Sustainable Design and Technology' seeks to ensure that all new homes in Hinckley will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan 2001

The site lies adjacent to Ashby-de-la-Zouch canal, which is a designated Conservation Area and is afforded protection through Policy BE7 and Policy REC6 of the Hinckley and Bosworth Local Plan.

Policy EMP4: 'Employment Development on Sites other than those Allocated for Employment Uses' states that planning permission for small scale employment uses within settlement boundaries will be granted unless the proposed development would be detrimental to the amenities of adjoining residents; would detract from the character and appearance of the environment; generate traffic on a scale which would be detrimental to adjoining residents; fails to meet appropriate design, layout, highways and parking standards and generates traffic likely to exceed the capacity of the highway network or impede road safety.

Policy RES5: 'Residential Proposals on Unallocated Sites' states that on sites that are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal does not conflict with the relevant plan policies.

Policy BE1: 'Design and Siting of Development' seeks to safeguard and enhance the existing environment and states that planning permission will be granted where the development: complements or enhances the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; and does not adversely affect the occupiers of neighbouring properties.

Policy BE7: 'Development in Conservation Areas' states that primary planning policy will be the preservation or enhancement of their special character. Planning permission for proposals which would harm their special character or appearance will not be granted.

Policy REC6: 'Ashby Canal Corridor' provides a corridor either side of the canal in order to protect the recreational and ecological value of the canal. Development is allowed within the corridor subject to specified criterion.

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision for new development.

Policy NE12: Landscaping Schemes states that proposals for development should take into account the existing features of the site and make provision for further landscaping where appropriate.

Policy NE14: 'Protection of Surface Waters and Groundwater Quality' seeks to protect the water environment.

Policy IMP1 requires all new development to make a contribution towards the provision of the necessary on-site and off-site infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Policy REC3 New Residential Development - Outdoor Play Space for Children requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Supplementary Planning Guidance/Documents

The Council's Supplementary Planning Guidance (SPG): 'New Residential Development' provides a series of standards that new residential development should achieve in respect of density, design, layout, space between buildings and highways and parking. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

The Council's Supplementary Planning Document (SPD): 'Play and Open Space' provides a framework for the provision of play and open space and financial contributions to support the requirements of Policy REC3.

The Council's Supplementary Planning Document (SPD): 'Sustainable Design' aims to support and encourage developers and applicants in delivering homes in line with national best practice guidance primarily the Code for Sustainable Homes for housing and delivery of sustainable development through the planning system.

Other Material Policy Guidance

The Ashby Canal Conservation Area Appraisal (December 2009)

This identifies the Port House at the end of the Hinckley Wharf fronting Coventry Road as a Grade II Listed Building. It also identifies the buildings to the rear as former warehouses now converted into residential uses and new buildings. It states it is important that a strategy and masterplan is developed to accommodate any further development or environmental improvements which respects its former use.

Appraisal:-

The main considerations with regards to this application are the principle of development, siting and layout, impact upon the character and appearance of the Conservation Area, impact upon residential amenity, highway considerations and other matters.

Principle of Development

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

scheme comprises three predominant uses:- residential, office and dental laboratory and clinic on an existing Brownfield industrial site.

In respect of the offices, dental laboratory and clinic, Policy EMP4 is supportive of small scale employment uses within settlement boundaries, providing that the proposed development would not:-

- a) be detrimental to the amenities of adjoining residents
- b) detract from the character and appearance of the environment
- c) generate traffic on a scale which would be detrimental to the amenities of any adjoining residents
- d) fail to meet appropriate design, layout, highways and parking standards; and
- e) generate traffic likely to exceed the capacity of the highway network or impair road safety.

These matters are addressed in the later sections of this report.

Following the grant of a temporary consent (Ref: 08/00148/COU) the dental clinic element exists on site. This consent expired on the 30 June 2011.

In addition, the principle of the residential, office and dental laboratory and clinic mix was established by the earlier grant of planning permission (ref: 08/00136/FUL), which expired on 11 April 2011.

In summary, there is therefore no 'in principle' objection to the mixed use development on this Brownfield site within the settlement boundary, and for the reasons discussed in this report, it is not considered that there are any issues which would suggest that the scheme would be contrary to local development plan policies.

Siting and Design and Impact Upon the Character and Appearance of the Conservation Area

The site lies adjacent to Ashby-de-la-Zouch canal, which is a designated Conservation Area. It is a statutory requirement that any new development should at least preserve the character of the Conservation Area.

The scheme is to be sited in a linear design projecting from the southern elevation of 'Phase I'. The ridge height steps down from the adjacent development reflecting the fall in ground level. It is considered that both the siting and proportions of this development reflect that of the existing form of development.

The design includes features that reflect a historic wharf side warehouse by incorporating gables and large arched features, three of the arched features include glazing which gives the appearance of a modern conversion. A similar design approach was approved on the adjacent development.

The siting, scale and design is considered to reflect the adjacent development while also reflecting the change in levels between the two sites. The proposal is a modern design incorporating features of a historic development and is considered to be a suitable design approach in this setting.

The design of the buildings, combined with the surfacing and landscaping will result in an improvement to the current appearance of the area. The proposal is therefore considered to enhance this part of the Conservation Area, which currently accommodates single storey industrial buildings of little or no architectural merit.

In summary, the proposed development accords with the general siting and scale of existing development within the vicinity, ensuring that the development appears in keeping with the scale and character of the existing area and overall is considered to enhance the Ashby de la Zouch Conservation Area. Accordingly the scheme is considered in accordance with PPS5 and Saved Policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.

Impact upon Residential Amenity

The residential dwelling most immediately impacted upon as a result of the proposal would be No. 314b Coventry Road located to the south east of the application site.

Given both the difference in land levels and siting of the neighbouring dwelling the neighbouring dwelling is sited approximately 2.5 metres higher than the ground level on the application site and for this reason it is not considered that this property would be significantly detrimentally impacted upon as a result of the proposal.

There are both ground, first floor and velux window units proposed in the rear, eastern elevation which would overlook the adjacent car parking and garaging area but not any habitable windows of the neighbouring dwelling. Some lower panes of obscure glazing have been proposed in both the most southerly point within the rear elevation and the end, south elevation facing the canal to prevent overlooking. A condition is suggested to secure this.

Following a letter of representation, additional obscure glazing has been requested and the applicant has provided an amended plan to show obscure glazing within the northern end elevation, adjacent to Phase 1. Again, a condition is similarly suggested to secure this.

In response to letters of representations, officers have attended the site to check the basic measurements and it is not considered that there are errors within the submitted plans. In response to the measurements of the access drive, turning and parking this has been considered by the Director of Highways, Transportation and Waste Management (Highways) and is dealt with in more detail below. In addition, whilst street lighting is not proposed, the scheme does propose bollard lighting, the full details of which will be requested by condition.

In summary, the proposal is considered to have minimal impacts upon amenity of neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy BE1 of the Local Plan.

Highway Considerations

Objections have been raised regarding the potential loss of access to areas beyond the application site, inability for emergency vehicles to access the site, access widths, inadequate parking and erection of barriers and re-positioning of gates.

The Director of Highways, Transportation and Waste Management (Highways) requested additional information in respect of the number of car parking spaces and raised concerns over car parking spaces 1-3 and 17-20 being substandard with no disabled or cycle spaces shown. Amended plans have been submitted and the Director of Highways, Transportation and Waste Management (Highways) having considered the amended plans, stated that whilst the layout is poor in terms of its design and layout and the parking provision is substandard, it is acknowledged that the layout is an improvement on that previously approved and the issues are not sufficient enough to sustain a reason for refusal on highway grounds. As such the Director of Highways, Transportation and Waste Management (Highways) recommends approval subject to the imposition of planning conditions.

The application proposes to use the existing access to the site and maintain an access to the Hinckley Wharf beyond the site to the south. The scheme does not propose bollards, gates or a chain to prevent access to the north of the site and the gated entrance is to be re-positioned to the west by between 0.7-0.9 metres and the gates re-hung to the south of the site. It is therefore considered that there are no obstructions to entry; however it must be noted that access rights are private matters and are not a material planning consideration.

In respect of surfacing, the Director of Highways, Transportation and Waste Management (Highways) has requested a condition requiring the driveway and parking areas to be surfaced with tarmacadam, concrete or similar hard bound material.

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

Other Matters

Ecology

A Biodiversity Survey confirms that there are no significant wildlife habitats or features and that the proposed development will not have any impact on wildlife and biodiversity. The Directorate of Chief Executive, (Ecology) has stated that there is always the potential for bats to be using a building and has recommended a Watching Brief be maintained. The site is not known to have any ecological interest and thus no further consideration of this matter is required.

Archaeology

The scheme has been considered by the Director of Chief Executive (Archaeology) who has no concerns from an archaeological perspective and the buildings to be demolished appear to be modern so as such states that there is no need for any archaeological work in this case.

Drainage

The scheme has been considered by Severn Trent and the Head of Community Services (Land Drainage) and neither object to the scheme, subject to the imposition of planning conditions. Accordingly it is considered that the proposed works will be in accordance with Policy NE14 of the Local Plan and guidance contained within PPS25.

Sustainability

Inline with Policy 24 of the Adopted Core Strategy, the residential units to be constructed on this site will need to be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. This will be ensured through the imposition of a planning condition.

Waste Minimisation

The scheme has been considered Head of Business Development and Street Scene Services (Waste Minimisation) who is satisfied the domestic bin store proposed on site is sufficient for domestic refuse and recycling and has confirmed that they have requested that the bin store was moved to the entrance of the development. The Head of Business Development and Street Scene Services (Waste Minimisation) however recommends that commercial bins are kept completely separate from the domestic. The applicant has submitted a plan to show the location of the commercial bin to the side of the building, separate from the domestic storage.

In response to letters of representations, the position of the bin store is as currently exists and it is not considered that the bins would give rise to an additional smell or attract vermin over and above that already exerted from the existing bins.

Financial Contributions

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

Conclusion

In conclusion, the proposed development would be located within the settlement boundary of Hinckley, where there is a presumption in favour of development subject to all other matters being addressed. The site also affords the benefit of consent for the same scheme in 2008, and whilst that consent subsequently lapsed on 11 April 2011, it is considered to be a material consideration in the determination of this application.

The development would not give rise to any significant material impacts upon the occupiers of the neighbouring dwellings, highway safety, protected species or flooding and is considered to enhance the character of the Ashby de la Zouch Canal Conservation Area.

There are no other material impacts which have been identified, that would indicate that the proposal is not in compliance with local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION :- Permit subject to no new significant material objections being received prior to the expiry of the consultation period on 22 December 2011 and the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is considered characteristic of the surrounding area and would not be detrimental to visual amenity, residential amenity, highway safety, protected species or flooding and is considered to enhance the character of the Ashby de la Zouch Canal Conservation Area.

Hinckley and Bosworth Local Plan (2001):- Policies EMP4, RES5, BE1, BE7, NE12, NE14, REC6 and T5.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies 1, 19 and 24.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the following details: Site Location & Block Plans Drawing No. 3929/01; General Arrangement Drawing No. 3929/03 rev. K; Planting Scheme Drawing No. 002; Cross Section Through Site Drawing No. 3634/05 received by the

Local Planning Authority on 9 November 2011 and amended details; Site Layout Plan Drawing No. 001 B; End Elevation Drawing No. 003 A and plan showing the location of the commercial bin received by the Local Planning Authority on 16 December 2011; Ground Floor Plan 3929/04 C; First Floor Plan 3929/05 C; Second Floor Plan 3929/06 C and Third Floor Plan 3929/07 C received on 19 December 2011.

- 3 No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed building shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials
- 4 No development shall commence until full details of the window and door styles, reveals, cills, header treatments and materials of construction are first submitted to and approved in writing by the Local Planning Authority, the works shall then be implemented in accordance with the approved details.
- 5 No development shall commence until full details of the eaves and verge treatment, guttering and down pipe (including materials and method of fixing) are first submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details.
- 6 Notwithstanding the submitted plans 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 and boundary treatments
 - b) Hard surfacing materials
 - c) External Lighting including bollard lighting
 - d) Schedules of plants, noting species, plant sizes, planting plans and proposed numbers/densities where appropriate.
 - e) Written Specifications
 - f) Implementation programme.
- 7 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 8 No development shall commence shall take place until the proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 9 The windows to be inserted in the southern elevation as shown on plan no. 3929/03 Rev K shall be fitted with obscure glass and shall be retained this way thereafter.
- 10 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 residential units hereby approved can be constructed to a minimum of Code Level 3 has been provided to the Local Planning Authority. In addition, prior to the first

occupation of the residential units hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.

- 11 No development shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. Prior to first use and occupation of the buildings hereby approved, the scheme shall be implemented in accordance with the approved details.
- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E inclusive shall not be carried out on the residential units unless planning permission for such development has first been granted by the Local Planning Authority.
- 13 Notwithstanding details shown on the permitted plans, before the first use and occupation of the buildings hereby approved, details of secure cycle parking provision shall first be submitted to and agreed in writing with the Local Planning Authority and once provided shall be maintained that way thereafter.
- 14 Before first use and occupation of the buildings hereby approved, the existing gates to the vehicular access shall be removed. Any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of 10 metres behind the highway boundary and shall be hung so as to open inwards only.
- 15 Before first use and occupation of the buildings hereby approved, the access drive and all areas to be used by vehicles shall be surfaced with tarmacadam, concrete or similar hard bound material (as agreed by condition 6) and shall be maintained that way thereafter.
- 16 The garage(s)/carport to be provided, shall remain available for car parking 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.
- 3-5 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 and BE7 of the adopted Hinckley & Bosworth Local Plan.
- 6 To enhance the appearance of the development to accord with Policy NE12 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policy NE12 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure the development is compatible with the character and appearance of the existing streetscene, in accordance with the requirements of Policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.

- 9 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 In the interests of sustainable development to accord with Policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 11 To ensure that the development provides a satisfactory means of drainage to reduce the risk of creating, or exacerbating any existing, flooding problem and to minimise the risk of pollution in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure that existing standards or privacy and visual amenity are maintained in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 13 In the interests of the sustainability of the development and to encourage alternative transport choice in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 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 to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 15 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 16 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 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 permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.
- 6 Bats, nesting birds, great crested newts and certain other species are protected by law. A watching brief (maintained by the applicant and all workers on site) for all

protected species should be maintained throughout the development. 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.

- 7 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 more recently developed, 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.

If soakaway disposal is found to be impracticable the applicant should investigate the possibility of discharging clean surface water (or overflow surplus from the rainwater harvesting tank) to the canal basin, by negotiation with British Waterways.

Access roads, parking and turning areas, paths and outdoor assembly areas should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet - in this case the canal basin, subject to British Waterways' agreement.

- 8 Should permission be granted, you are reminded to comply with the conditions of application reference: 11/00809/CON.
- 9 Drawing no 3929/03 Rev K notes that the floor plans have been superseded by 1:50 scale plans on separate sheets - no's 3929/04 to 3929/07, however the elevations have not been superseded.

Contact Officer:- Ebony Mattley Ext 5691

Item: 06

Reference: 11/00809/CON

Applicant: Benchmark

Location: 5 Wharf Yard Hinckley

Proposal: PART DEMOLITION OF EXISTING BUILDINGS TO FACILITATE DEVELOPMENT

Target Date: 4 January 2012

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has generated 5 or more objections.

Application Proposal

This application seeks Conservation Area Consent for the part demolition of 3 no. existing single storey industrial units.

Three single storey industrial units currently accommodate the site, Unit 4 is a dental clinic which received temporary consent (ref: 08/00148/COU) until 30 June 2011 and Units 5 and 6 are currently unused.

Members are advised that this application should be read in conjunction with planning application (ref: 11/00808/FUL) which proposes the erection of 9 no. apartments, 2 no. office units, dental laboratory and clinic with associated vehicular access and parking. As such the buildings are proposed to be demolished to allow for proposed re-development on site, with the eastern wall to be retained.

The Site and Surrounding Area

Land levels differ considerably on site and within the surrounding area, the access slopes down from Coventry Road, the site itself is predominantly flat, whilst the land to east of the site is approximately 2.5 metres higher. The adjacent site to the north, referred to as 'Phase I' was subject to an application for 6 apartments which was approved in 2006 (06/00757/FUL) and subsequently implemented. To the east of the site is a commercial yard with associated parking and to the south east a garaging area for a detached bungalow at 314 b Coventry Road. To the south of the site the access continues to the branch of the canal.

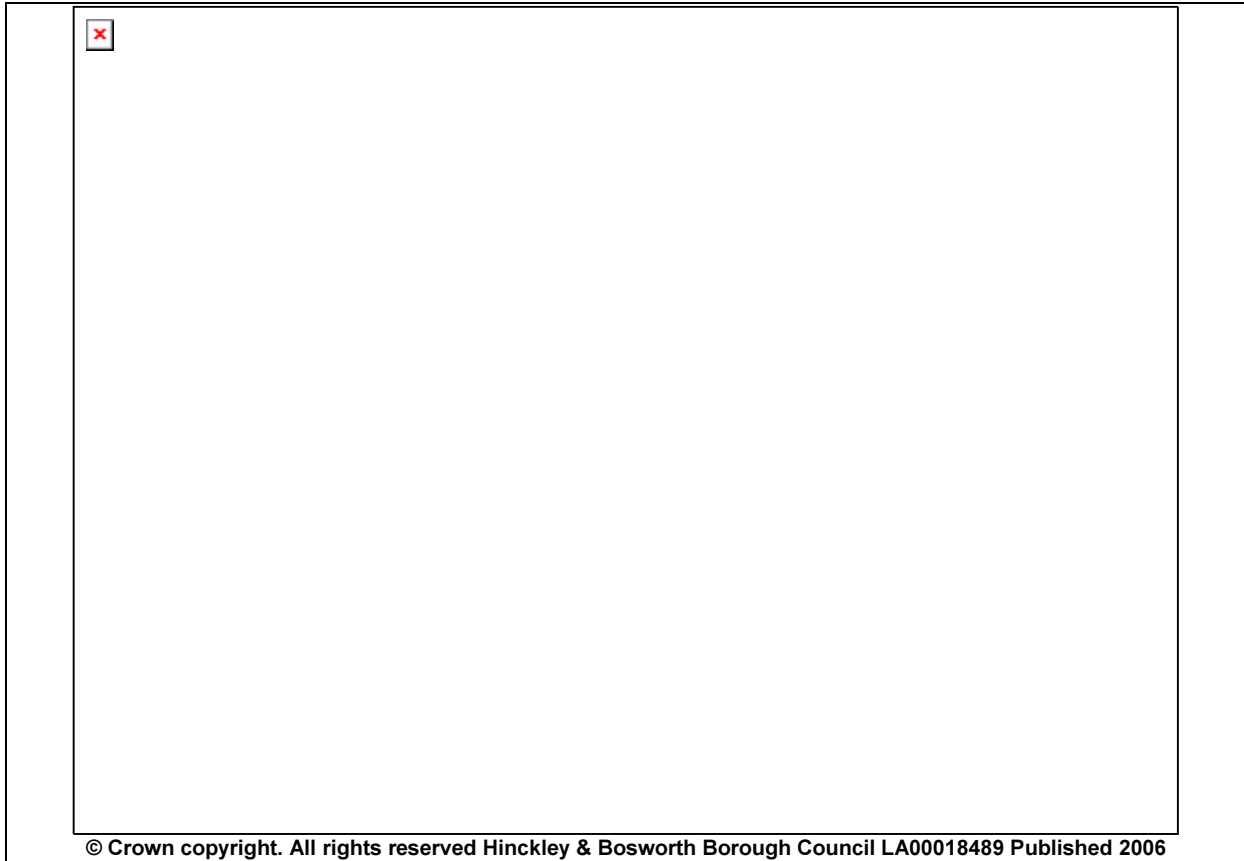
The site is located within the settlement boundary of Hinckley and within the Ashby de la Zouch Canal Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Documents submitted with application

The application is accompanied by a Heritage Statement which details the surrounding development and states that the form of the development has taken shape as a result of the discussions and consultation for Phase I of the development.

Relevant History:-

11/00808/FUL	Dental laboratory and clinic with two office units and nine apartments with vehicular access and parking	Pending	
11/00237/BOC	Enforcement Enquiry	Pending this decision	
08/00136/FUL	Dental laboratory and clinic with 2 no. office units and 9.no apartments with vehicular access and parking	Approved	11.04.08
08/00148/COU	Temporary dental clinic	Approved	11.04.08
06/00757/FUL	Demolition of existing workshop and offices and erection of 6 residential units	Approved	06.09.06



Consultations:-

No objection has been received from:-

Ashby Canal Association
British Waterways
The Inland Waterways Association
Directorate of Chief Executive (Archaeology)
Head of Community Services (Pollution)
Head of Community Services (Land Drainage).

No objection subject to conditions have been received from Severn Trent Water.

Site notice and Press notice were displayed and neighbours notified.

Ten letters of objection have been received, however they do not raise concerns in respect of the demolition of the buildings and the objections have been fully appraised under the full planning application.

The consultation period remains open at the time of writing and closes on 22 December 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Planning Policy Statement 5 (PPS5): 'Planning and the Historic Environment' sets out how applications affecting heritage assets should be determined; it requires Local Planning Authorities to assess the impact on the historic environment.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Regional Policy

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the Government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications).

Local Development Framework Core Strategy 2009

None relevant.

Hinckley and Bosworth Local Plan 2001

The site is located within the settlement boundary of Hinckley and within the Ashby de la Zouch Canal Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan.

Policy BE8: Demolition in Conservation Areas states that applications for the demolition of buildings in conservation areas will be refused except where it can be demonstrated that the loss of the building will not be detrimental to the character or appearance of the conservation area and that there are proposals for its replacement which would preserve or enhance the character or appearance of the conservation area.

Other Material Policy Guidance

The Ashby Canal Conservation Area Appraisal (December 2009)

This identifies the Port House at the end of the Hinckley Wharf fronting Coventry Road as a Grade II Listed Building. It also identifies the buildings to the rear as former warehouses now converted into residential use and new buildings. It states it is important that a strategy and masterplan is developed to accommodate any further development or environmental improvements which respects its former use.

Appraisal:-

The main consideration in the determination of this application is the impact of the demolition of the building upon the character and appearance of the Conservation Area.

Impact upon the Character and Appearance of the Conservation Area

The proposed development involves the part demolition of existing single storey industrial buildings. The wall to be retained is the eastern wall bordering the commercial yard and parking and garaging area for a detached bungalow at 314b Coventry Road.

The buildings currently fall under Use Class B1 and with a lapsed temporary consent for a dental clinic. All three units are single storey modern brick with slate roofs which are not considered to make a significant positive contribution to the immediate streetscene of the wider area or the character and appearance of the Conservation Area to deem it worthy or retention. It is considered that the units currently detract from the character and appearance of the Conservation Area, and as such there is no in principle objection to their removal.

Saved Policy BE8 requires redevelopment proposals to be in place where structures/buildings are to be demolished within Conservation Areas. It should be noted a development is proposed and being assessed under planning application ref: 11/00808/FUL.

It is considered that the development put forward under planning application 110/00808/FUL proposes a scheme which will enhance the character and appearance of the Ashby de la Zouch Canal Conservation Area. As such the replacement is considered to be in accordance with Saved Local Plan Policy BE8 of the adopted Local Plan.

Due to the siting of the development within the Conservation Area, it is considered necessary to prevent the demolition until immediately prior to redevelopment, to ensure that the clearance following a demolition does not have a negative impact on the Conservation Area. It is therefore necessary to impose a planning condition to secure this.

The neighbouring letters of objections relate to and are therefore appraised within application 11/00808/FUL.

Conclusion

In conclusion, the proposed demolition involves the removal of three industrial units which are considered detrimental to the character and appearance of the Ashby de la Zouch Canal Conservation Area. A comprehensive replacement scheme is currently under consideration and is considered to enhance the character and appearance of the Conservation Area. The impact of demolition upon the Conservation Area and the potential for construction to follow within a reasonable timeframe can be controlled by an appropriate condition so that the cleared site does not blight the Conservation Area longer than necessary.

Accordingly it is recommended that Conservation Area Consent is granted, subject to the imposition of planning conditions.

RECOMMENDATION:- to grant conservation area consent for the demolition, subject to no new significant material objections being received prior to the expiry of the consultation period on 22 December 2011 and the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, 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 in accordance with the development plan as it is considered that the demolition of the industrial units would not be detrimental to the character and appearance of the Conservation Area and there is a suitable replacement scheme proposed.

Hinckley and Bosworth Local Plan (2001):- Policy BE8.

- 1 No demolition hereby permitted shall be undertaken unless and until full planning permission has been obtained for the redevelopment of the site and a binding contract for carrying out of the works of re-development of the site pursuant to that planning permission has been entered into and the terms of which have been approved by the Local Planning Authority.
- 2 The demolition hereby permitted shall not be carried out otherwise than in complete accordance with the details: OS Sitemap (Scale 1:2500) and plan entitled survey, drawing no. 010 A received on 29 September 2011 and Site Layout Plan Drawing No. 001 A received by the Local Planning Authority on 8 December 2011.

Reasons:-

- 1 To comply with the requirements of Section 74 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 Should permission be granted, you are reminded to comply with the conditions of application reference: 11/00808/FUL.

Contact Officer:- Ebony Mattley Ext 5691

Item: 07

Reference: 11/00822/FUL

Applicant: Mrs M Bowler

Location: Land South Of Charnwood Acres Markfield Road Ratby

Proposal: CHANGE OF USE OF LAND FOR THE KEEPING OF HORSES, CREATION OF MANEGE AND THE RETENTION OF TWO STABLES

Target Date: 8 February 2012

Introduction:-

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

Application Proposal

This application seeks full planning permission for the change of use of land to equestrian, the construction of a manège and the retention of seven stables. The manège would measure 20 metres by 40 metres and be surrounded by a 1.2 metre high post and rail fence. The surface would be finished in a synthetic textile material which would have a grey appearance. The manège would be level with the stables and therefore cut into the hillside. Plans have been received showing a section through the site and a retaining wall finished

with sleepers. An additional 21 day consultation period has been undertaken and this remains open at the time of writing.

Permission is sought to retain the two blocks of stables on the site. The stables to the north are constructed out of breeze block and painted a cream colour. The other stable block is of timber construction and stained a dark brown colour. They are located facing each other with an area of hard standing in between.

The Site and Surrounding Area

The site is located to the west of Markfield Road Ratby, on land to the south of the M1 and Charnwood Acres caravan park. The site consists of a paddock area with a hard surfacing area to the east with two stable blocks facing each other. The land slopes down from south to north east with mature trees and hedgerows peppering the slope and horizon. The applicant has indicated a difference in height of 5 metres across the site with the existing stables at the lowest point.

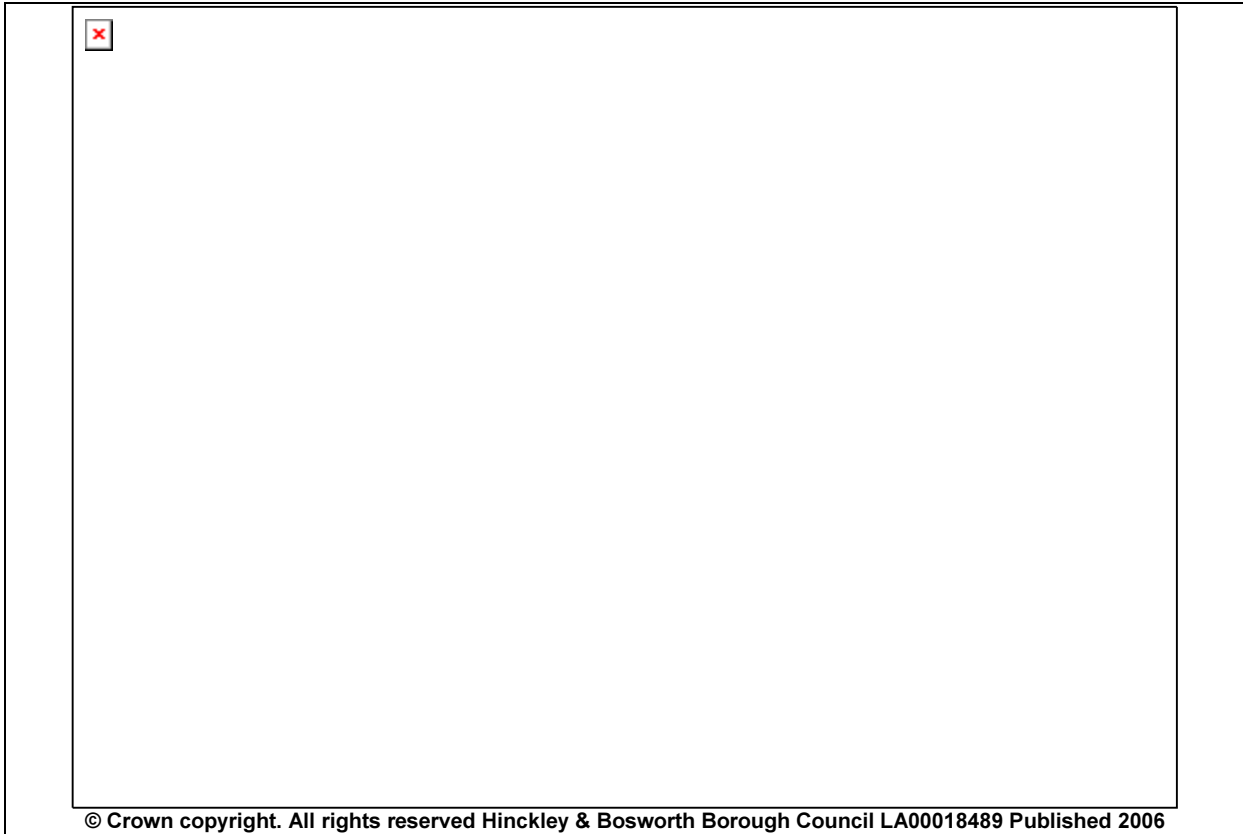
A brook runs to the north of the site which is lined by trees, beyond which is a timber yard and wooded area. To the east is Faulkner’s Nurseries, which comprises a series of single storey sheds and out buildings and to the south and west is open undulating countryside. There are two footpaths that cross the far west of the site.

Technical Document submitted with application

The application has been submitted with a design and access statement that considered the surrounding land use and concludes that the proposal would not have any effect on the character of the area.

Relevant History:-

95/00723/TEMP	Retention of four stables and storeroom	Approved	24.10.95
92/00654/4	Extension to stable and store	Approved	25.08.92
90/0695/4	Four stables and storeroom	Approved	16.08.90
89/00888/4	Three stable and one tack room for use private stable yard Land OP2446pt Markfield Road, Ratby	Approved	11.09.89



Consultations:-

No objection has been received from:-

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

Site notice was displayed and neighbours notified.

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

Western Power Distribution
Ramblers Association
Ratby Parish Council
Head of Community Services (Pollution)
Neighbours.

Policy:-

National Policy Guidance

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development sets out the Government's objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas sets out the Governments objectives to guide development within rural areas. Guidance is based upon the sustainable principle's outlined within PPS1.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the Government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

None relevant.

Local Development Framework Core Strategy 2009

Policy 21, National Forest supports the implementation of the National Forest through supporting development that contributes to the National Forest Strategy. New developments are required to reflect the forest context within the landscaping proposal.

Hinckley and Bosworth Local Plan 2001

Policy BE1, Design and Siting of Development - seeks a high standard of design to secure attractive development that safeguards and enhances the existing environment. One way this is achieved is through incorporating a high standard of landscaping.

Policy NE5, Development in the countryside- Seeks to protect the countryside for its own sake but allows certain types of development including development for sport and recreation. Development is supported providing criteria within the policy are met.

Supplementary Planning Guidance/Documents

None relevant.

Appraisal:-

The main considerations with regards to this application are the principle of the development, and the design and appearance in relation to the character and appearance of the countryside and other material considerations.

Principle of Development

The site has a history of planning permissions granting consent for a variety of stable buildings and stores for associated feed and equipment. These were either granted for a limited period of time or personal to the applicant. Since the site has been purchased by the application the buildings no longer benefit from planning permission. However, the site history indicates that equestrian use for private purposes has been accepted in principle on this site.

Notwithstanding the above, the site is located within the countryside which is protected for its own sake. Policy NE5 of the adopted Local Plan supports development for sport and recreation. The application is for a private equestrian use and is therefore acceptable in principle as a recreational use within the countryside. It is therefore considered that the principle of the proposal for equestrian use within this location is acceptable.

Layout/Design/Scale/Mass

The stables are sited either side of a hard-standing on the lowest part of the site and close to the vehicular access into the site. They consist of purpose built stable buildings and their simple linear form reflects this. The southernmost block is timber with a wide opening to the front with stables accessed within the building. The northernmost building is constructed of painted blockwork, the materials of which were approved under the 1992 permission. The stables are located on the side of the application site closest to the built form of the nursery. It is considered that the scale and massing of the stables is appropriate for their use and location. Accordingly the retention of the stables is considered to comply with Policy NE5 and BE1 of the adopted Local Plan.

The manège would measure 20m by 40m and is proposed to be surrounded by a 1.2m post and rail fence. It would be constructed at the same level as that of the stables with the result

that the manège would be cut into the hill side. Plans have been submitted showing a retaining wall to the south of the manège with sleepers proposed as the facing material. It is considered that sleepers as a finished material, due to their colour and texture, would assimilate well into the landscape.

Cutting the proposal into the hill slope will reduce the views of the proposal from the public footpath located to the south and west, landscaping along these sides will assist in breaking up the development. Due to the position and levels, it is considered that the manège would have a limited visual impact on the landscape.

Landscape

The site is located within the National Forest and it is considered that landscaping is required to help assimilate the proposal into the environment. Planting is proposed to the top of the retaining wall to act as a windbreak. As the scheme is within the National Forest planting is welcomed. This should be a mix of native species appropriate for the ground conditions. Whilst details of species with pot sizes have been submitted, these are more appropriate to a residential garden and would look alien in this environment. The applicant has indicated that they will be happy to substitute the plant for others and therefore this can be dealt with by a suitably worded landscape condition.

Other issues

Due to the remote nature of the site it is not considered there would be any detrimental impact on the amenities of neighbouring residents.

Whilst previous permission relating to the site were subject to personal permissions or for a temporary period only this was to prevent the site being used as a commercial livery. Whilst it is not clear why the conditions were imposed, the single and narrow access track would not support a significant increase in vehicle trips. It is considered a more appropriate approach to put a condition on preventing the site being used for on a commercial basis.

Conclusion

The use of the land for the keeping and grazing of horses as a recreational activity is considered to comply with development considered acceptable in the countryside as defined by Policy NE5. The principle of the stables for the welfare of the horses and in connection with the land use is also acceptable. The scale and size of the stables represent an appropriate form of development in the countryside. It is not considered that the stables detrimentally affect the character of the area.

The manège would be cut into the side of the hill restricting the impact from views obtained from the footpaths crossing the application site. The proposal would not impact on the footpaths. It is considered that appropriate planting will soften and screen the proposal further.

It is therefore considered that the proposal complies with Policies NE5 and BE1 and accordingly is considered acceptable.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 9 January 2012 and to the following conditions:

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. By virtue of the scale, siting and location of the development it is considered that the proposal would not detrimentally affect the character or appearance of the countryside, the amenities of neighbouring residents.

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

Hinckley and Bosworth Development Framework: Core Strategy (2009):- Policy 21.

- 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:- Proposed block plan 001/2; Proposed site plan 001/3; Proposed Manège plan 001/4; Proposed Manège section detail 001/5; General specification and general fencing elevation 001/6.
- 3 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) planting plans
 - b) written specifications
 - c) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - d) implementation programme.
- 4 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 5 The development hereby permitted shall not be used in connection with a riding school/livery yard or any other business or commercial use.

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&4 In the interests of the visual amenity and character of the area in accordance with Policies BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 5 In the interest of highway safety and 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.

Contact Officer:- Sarah Fryer Ext 5682

Item: 08

Reference: 11/00743/FUL

Applicant: Evans Bros Ltd

Location: Land Adjacent 35 Sapcote Road Burbage

Proposal: DEMOLITION OF EXISTING FARM BUILDINGS AND ERECTION OF 6 NO. DWELLINGS

Target Date: 31 January 2012

Introduction:-

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

Application Proposal

This planning application seeks full planning permission for the demolition of a number of former agricultural buildings and the erection of 6 detached dwellings, 2 at the front of the site and 4 at the rear. 5 of the detached dwellings (plots 1-5) are proposed with an integral garage and a detached garage is proposed to the front of plot 6. An existing gated access from Sapcote Road to the south is proposed to form the vehicular access and drive into the site and a turning head to the front of plot 2 would be provided. A refuse bin collection area for all properties is proposed adjacent to the turning head at the front of the site. Off street parking spaces are proposed to the front of each dwelling together with private gardens to the rear. It is proposed to site the dwellings within the settlement boundary for Burbage with the gardens to the rear of plots 3-6 being sited within the defined Green Wedge.

Two amended plans were received on 18 November 2011 which shows the enlargement of the refuse bin collection area to the front of plot 2 and the substitution of the window to bedroom 2 on its eastern elevation with a false window.

The Site and Surrounding Area

The site is of former agricultural use and consists of a number of rural buildings, including a open pole barn, stables and two storage containers. These buildings are located in a central position within the site and are in a dilapidated condition. These buildings are single storey in height and arranged around a courtyard. The existing gated access is 3m wide and is bordered either side by a 3m high coniferous hedge. The land to the rear of the farm buildings consists of open paddock land which is bordered to its eastern boundary by a line of mature trees at a height of 4m and by a 2m high hedge along the western boundary. The area to the south, east and west of the site is residential in nature. The northern side of Sapcote Road is characterised by large detached dwellings and pairs of semi-detached two-storey dwellings set back from the edge of the highway footpath with large gardens to the rear. The area to the west is characterised by dwellings set back from the highway within spacious plots and accessed from an unmade track.

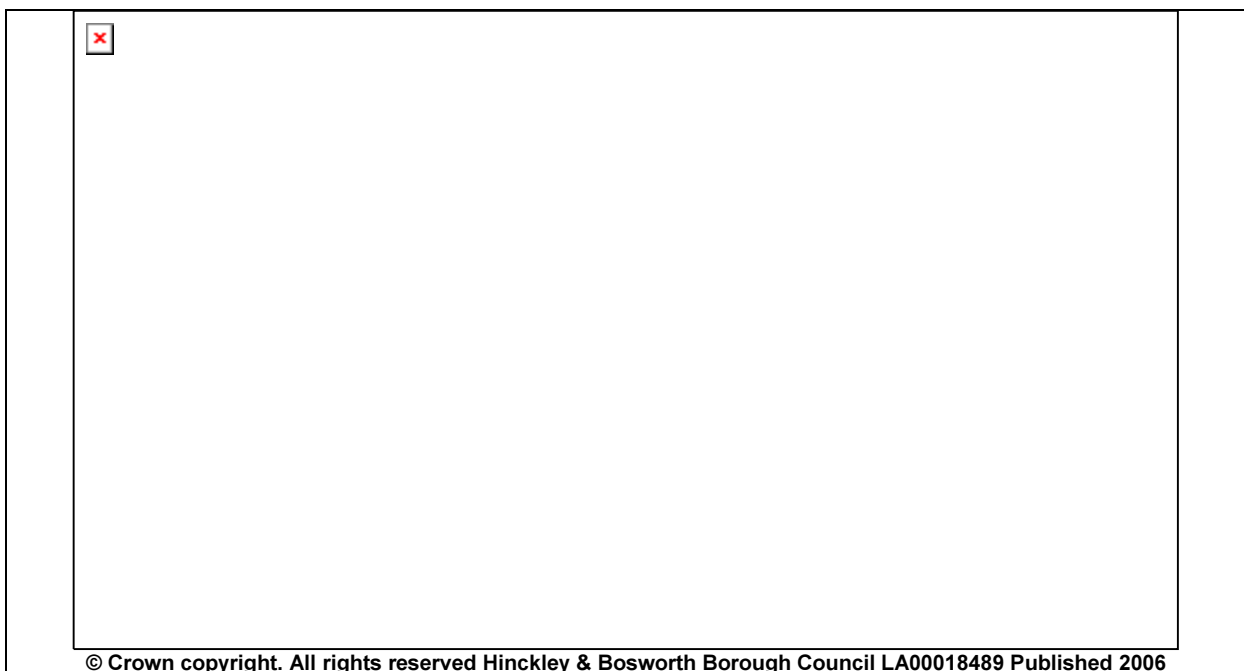
Technical Documents submitted with application

The planning application is accompanied by a design and access statement and an ecological survey. The design and access statement sets out the site constraints and states that the existing buildings on the site are of a poor condition and have no architectural or visual merit and that careful consideration of the design has been given in order to minimise overlooking and overshadowing. It goes on to state that all of the dwellings will have adequate private amenity space, the siting of the dwellings to the front will allow views of the dwellings to the rear and that all of the dwellings have been designed with brick detailing to the eaves, verges and windows to reflect the sites agricultural past.

The ecological survey provides an assessment of the existing buildings to determine whether they support habitat for protected species. The survey concludes that no evidence of bat roosts were found, that the outbuilding had been used as a bird nest in the previous season and that there were no indications of any other protected species on the site.

Relevant History:-

None.



Consultations:-

No objection subject to conditions has been received from:-

Severn Trent Water Limited
Environment Agency
Director of Environment and Transport (Highways)
Head of Community Services (Land Drainage)
Head of Community Services (Pollution)
Head of Business Development and Street Scene Services.

No objections subject to note to applicant has been received from The Directorate of Chief Executive (Ecology).

Burbage Parish Council object to the proposed development for the following reasons:-

- a) overbearing impact
- b) encroachment into the green wedge
- c) overdevelopment of the site
- d) history of traffic issues along Sapcote Road
- e) development will increase risk of traffic accidents.

A site notice was displayed. Seven letters of objection have been received raising the following issues:-

- a) the proposed access is sited too close to the existing access serving 9 properties
- b) existing issue of cars parked on the highway verge which impairs visibility
- c) there are existing issues with exit/access from Sapcote Road which would be exacerbated by the development
- d) the access to the larger development site should be from the proposed access drive and not from the private lane serving 17-29 Sapcote Road
- e) encroachment of gardens into the green wedge
- f) impact on local ecology
- g) impact on view
- h) overshadowing
- i) the proposed access will increase the potential for vehicular accidents
- j) loss of light to conservatory from plot 1
- k) overshadowing of garden from garage and dwelling to plot 6
- l) overlooking from all properties
- m) significant increase in the volume of traffic using the proposed access and drive
- n) the levelling of the ground has already commenced
- o) the proposed access should be paired with the existing access to 17-29 Sapcote Road
- p) any development at the site will then restrict access to the rear of the site in the future.

Policy:-

National Policy Guidance

Planning Policy Statement 1 - Delivering Sustainable Development sets out the Government's objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

Planning Policy Statement 3 - Housing sets out the national planning policy framework for delivering the Government's housing objectives.

This document states at paragraph 12 that good design is fundamental to the development of high quality new housing. Paragraph 13 reflecting policy in PPS1 states that good design should contribute positively towards making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted. Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density layout and access.

Planning Policy Statement 9 - Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

Planning Policy Guidance 13 - Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices'.

Planning Policy Statement 23 - Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance 24 - Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The Government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the Government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

Policy 1 seeks to secure the delivery of sustainable development.

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 43 seeks to improve highway safety across the region and reduce congestion.

Local Development Framework Core Strategy 2009

Policy 4 - Development in Burbage sets the development intentions for Burbage, which includes the allocation of land for the development of a minimum of 295 new residential dwellings and to address the existing deficiencies in the quality, quantity and accessibility of green space and play provision in Burbage as detailed in the Council's most up to date strategy and the play strategy, particularly in relation to new equipped play provision.

Policy 6 - Hinckley/Barwell/Earl Shilton/ Burbage Green Wedge states that within the green wedge uses will be encouraged that provide appropriate recreational facilities and promotes the positive management of land to ensure that the green wedge remains as an attractive contribution to the quality of life of nearby urban residents.

Policy 16 - Housing Density, Mix and Design' seeks to ensure that all new residential development provides a mix of types and tenures appropriate to the applicable household type projections. A minimum of 40 dwellings per hectare is required within and adjoining Burbage.

Policy 19 - 'Green Space and Play Provision' seeks to ensure that all residents have access to sufficient, high quality and accessible green spaces and play areas.

Policy 24 - 'Sustainable Design and Technology' seeks to ensure that all new homes in Burbage will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan 2001

Policy RES5 - Residential Proposals on Unallocated Sites states that on sites that are 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.

Policy BE1 - Design and Siting of Development states that the Borough Council will seek to ensure a high standard of design in order to safeguard and enhance the existing environment and that planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to design, materials and architectural features, and is not prejudicial to the comprehensive development of a larger area and does not adversely affect the occupiers of neighbouring properties.

Policy NE2 - Pollution resists development which would be likely to cause or suffer from material harm through pollution of the air or soil.

Policy T5 - Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development.

Policy T9 - Facilities for Cyclists and Pedestrians encourages walking and cycling including facilities for cycle parking.

Policy IMP1 requires the appropriate financial contributions towards the provision of infrastructure and facilities.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance (SPG): 'New Residential Development' provides a series of standards that new residential development should achieve in respect of density, design, layout, space between buildings and highways and parking. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

The Council's Supplementary Planning Document (SPD): 'Sustainable Design' aims to support and encourage developers and applicants in delivering homes in line with national best practice guidance primarily the Code for Sustainable Homes for housing and delivery of sustainable development through the planning system.

Other Material Policy Guidance

The Burbage Village Design Statement 2006 in referring to this area states that the houses are set well back from the road and generally have long rear gardens. The document also states that the character of housing ranges from small 3 bedroom dwellings to large executive homes and varies from plain to the unusual in design and the majority of houses have good off-street parking or garages.

The 6C Design Guide deals with highways and transportation infrastructure for new development in areas for which Leicestershire County Council are the highway authority. Part 3 of this document sets out the guidance for designing layouts that provide for the safe and free movement of all road users and covers parking for cars, service vehicles, cycles and motorbikes.

Appraisal:-

The main considerations with regards to this application are the principle of development and impact on the green wedge, design and layout, impact on the amenity of the occupiers of neighbouring properties, highway safety issues and other issues.

Principle of development and Impact on the Green Wedge

With the exception of the proposed gardens to the four detached houses at the rear, the proposed development is sited within the settlement boundary for Burbage where there is a presumption in favour of development. The development is for residential properties on a site that was previously used as a farm and some of the buildings, including an open pole barn are still in existence at the site, albeit in a dilapidated condition. Policy RES5 allows new residential development within the settlement boundary and therefore it is considered that the principle of development is acceptable. The site layout shows that the site could easily accommodate six dwellings, a minimum of two off-street parking spaces per dwelling, together with a 4m wide access road and a turning area.

The proposed rear gardens to serve plots 3-6 would be sited beyond the settlement boundary, within the Green Wedge. Policy RES5 of the adopted Local Plan supports residential development within the settlement boundary. Policy 6 of the Core Strategy does not support residential development within the Green Wedge. In their design and access statement the applicant's agent states that the development would 'slightly encroach into this green wedge'. However the applicant's agent seeks to justify the encroachment into the Green Wedge by citing examples of dwellings along the northern side of Sapcote Road where the gardens extend beyond the settlement boundary into the Green Wedge and where structures of a domestic use are sited, including garages and sheds.

In considering if the principle of such encroachment is acceptable, the function of the Green Wedge (subject to this application) needs to be assessed. In doing this consideration has been given to the appeal decision at Leicester Road, Hinckley and the updated Joint Leicester and Leicestershire Green Wedge Review Methodology (July 2011).

The Inspector in considering the Leicester Road appeal considered the functions of the Joint Leicester and Leicestershire Green Wedge Review Methodology, in turn and assessed what impact the development would have on these functions. Since the appeal decision the Methodology has been updated.

The Joint Leicester and Leicestershire Green Wedge Review Methodology (July 2011) states that 'sub areas within a green wedge may not meet all four functions'. These functions are to prevent the merging of settlements, guide the form of development, provide a 'green lung' into urban areas, and to act as a recreational resource. It is considered that the functions of the Green Wedge should be considered in light of this application.

Prevent the merging of settlements and guide the form of development.

The application site forms a wedge shape of agricultural land between the built form of existing properties on the north side of Sapcote Road. To the east of the site properties facing Sapcote Road are located within the Settlement Boundary, however many gardens

extend into the Green Wedge. The boundaries are softened with landscaping reflecting the edge of settlement location. To the west beyond the private drive spur, off Sapcote Road, serving numbers 27, 29, and 25a, the built form consists of backland development around which the settlement boundary has been drawn. The application does not propose built form within the Green Wedge, only the garden areas of plots 3 to 6 fall within the Green Wedge. It is considered that the proposal reflects the character of the surrounding development and maintains the separation distance between Burbage and Hinckley. The proposed siting of the dwellings within the settlement boundary maintains the form of the development.

Green Lung and Recreational Resource

The current use of the site as paddock is a recreational resource within the Green Wedge and whilst it is in private use, it provides a green lung function. The proposed development would remove the site from fulfilling a recreational resource, however suitable landscaping, especially to the northern boundary of the site could maintain its function of a green lung. Appropriate conditions to control the development permitted within the garden areas of the proposed properties are recommended. It must also be noted that the 2011 review recognises that sub-areas within a green wedge may not fulfil all of its functions provided the Green Wedge as a whole does. Accordingly the proposal maintains the function of the Green wedge as a green lung however the recreational resource would be lost.

By containing all of the built form within the settlement boundary, it is considered that, subject to suitable conditions being imposed to ensure appropriate landscaping and the control of development within the curtilage of the proposed dwellings, the encroachment of the garden areas into the Green Wedge would not harm the function of the Green Wedge.

Design and Layout

The area to the south, east and west of the site is residential in nature. The northern side of Sapcote Road is characterised by large detached and pairs of semi-detached two-storey dwellings set back from the edge of the highway footpath with large gardens to the rear. These properties have open, un-interrupted views of the open countryside to the north. The area to the west is characterised by dwellings set back from the highway within spacious plots and accessed from an unmade track. Further to the east of the site are occasional breaks in the street scene where detached properties are set further back from the edge of the highway footpath. The proposed dwelling to the east of the vehicular access (plot 1) would be sited in line with the properties to the east of the site and would be 0.1m higher in its ridge height (8.6m) than No 35 Sapcote Road. In terms of its built form across the site frontage Plot 1 would have a width of 8.4m, this dimension is 1.6m less than the width of 35 Sapcote Road adjacent to the east.

The dwelling proposed to the west of the proposed access drive (plot 2) would be sited further back into the site than plot 1 and at an angled position (south east facing) to respond to the orientation of the pair of semi-detached dwellings (No 23 and 25) to the west of the site and the three properties located to the north west (19, 19a and 21 Sapcote Road). Taking into account the sloping nature of the land along Sapcote Road which falls away to the east, the ridge height of plot 2 will be 0.5m lower (7.8m) than the ridge height of 23 and 25 Sapcote Road and 0.3m lower than the ridge of Plot 1. It is considered that the siting of plots 1 and 2 responds to the siting and orientation of the existing dwellings located immediately to the east and west of the site. Due to the sloped nature of the site frontage a planning condition would be imposed requesting details of the existing and proposed ground and floor levels of the site and dwellings to be provided. The purpose of this condition would be to ensure that the dwellings are set at a similar height to existing dwellings on Sapcote Road and to ensure that the development assimilates into the street scene.

At present there is a clear break within the street scene with a gap of 35m between 25 and 35 Sapcote Road with some of the existing farm buildings visible from the gated site access. The siting and orientation of the proposed dwellings (Plots 1 and 2) responds to the break in this street scene and serves two purposes, it provides continuity to the street scene and removes buildings which are in a dilapidated condition and to the detriment of the appearance of the area.

In terms of the spacing between dwellings on the north side of Sapcote Road there will be a 1m break between 35 Sapcote Road and Plot 1, a 6.5m gap between Plots 1 and 2 and a 6.5m gap between Plot 2 and 25 Sapcote Road. Therefore there will be sufficient spacing between the proposed and existing dwellings, preserving the character of the area and allow the proposed development to assimilate into the street scene.

The design of the proposed dwellings to the site frontage includes an integral garage located to the most westerly point of their front elevations. The inclusion of an integral garage is reflective of the appearance of 15a and 35 Sapcote Road, located either side of the site. The dwellings along the northern section of Sapcote Road are a mix of designs, ages, scales and have differing roof designs. Plots 1 and 2 have a gable roof design with a projecting gable and a forward sloping monopitch over the integral garages. The inclusion of these design features are reflective of a number of dwellings within close proximity of the site including 13, 15 and 35 Sapcote Road. Plot 2 has been designed so that it has two principal elevations namely the southern and eastern elevations. This adds some visual interest to both the eastern and southern elevations.

The proposed dwellings to the site frontage will be set back from the highway and make provision for parking spaces to the front.

The introduction of dwellings to the rear is reflective of the siting of a number of dwellings in close proximity to the site, namely 25a and 29 Sapcote Road to the west and 47 Sapcote Road to the east. These dwellings are located within the settlement boundary, but in terms of their siting are located beyond the rear elevations of the four dwellings proposed in the cul-de-sac. Therefore in terms of the siting, the 4 proposed dwellings to the rear are considered to be in keeping with the staggered and irregular siting of dwellings in the area, particularly to the west of the site. In terms of their design these 4 dwellings will have a gable roof with a projecting gable to the front elevation. The inclusion of design details such as arched headers and brick cills to the window and door openings, canopied entrances (Plots 3, 4, 5 and 6) and an occasional false window (Plots 3 and 6) provide visual interest to the appearance of the dwellings.

The four dwellings to the rear will have varying ridge heights of 8.8m (plots 3 and 5), 8.6m (plot 4) and 8.9m (plot 6). Whilst there is only a difference of 0.3m between the ridge heights of these properties it is considered that this variance in heights would add visual interest to the rear of the site and roofscape, it will prevent the creation of a regimented style of development and will ensure that the difference in heights is not prominent to the extent that it would result in a disjointed appearance to the street scene at the rear of the site. Although there are bungalows located adjacent to the west (25A and 29 Sapcote Road), there are three properties (19, 19a and 27 Sapcote Road) located to the north west (beyond the rear boundary) on the edge of the settlement boundary and which back onto the green wedge that have ridge heights of equal scale to these proposed dwellings. Number 25a is a detached bungalow located to the north west of plot 3. This is a single storey dwelling with the ridge aligned north south and principle windows facing east and west. It is separated from the site by the access road serving it and numbers 27 and 29 Sapcote Road. Whilst Plot 3 would be a two storey dwelling and 25a is single storey the area to the west of the site appears to have been developed on an adhoc basis resulting in a range of ridge heights, separation distances, and design features. It is therefore not out of character with the area to see single storey development adjacent to two storey. It is therefore considered that Plot 3

would not have an overbearing impact on no 25a Sapcote Road. Numbers 23 and 25 Sapcote Road are two storey semi-detached dwellings set back from the highway within the fork of the private access driveways located to the west of the site. It is therefore considered that the two storey scale of the proposal is in keeping with the general scale of other development in the area.

The New Residential Development SPG sets a minimum of 80 square metres of private amenity space for 3 bedroom dwellings but there is no minimum garden amount set for 4 bedroom dwellings. Each dwelling will have a minimum of 100 square metres of private amenity space to the rear, together with landscaped front gardens. The provision of a minimum of 100 square metres of private amenity space is considered to be proportional to the scale and size of each dwelling and would not represent overdevelopment of the site.

Policy 24 of the adopted Core Strategy requires new residential units within Burbage to be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. No details of the scheme's compliance with this standard have been submitted with the application, therefore, such details would be secured via the imposition of a planning condition requiring them to be submitted prior to commencement on site.

Overall, the proposed dwellings to the Sapcote Road frontage are considered to have a well proportioned, high quality design and in terms of their siting and orientation they respond to the dwellings located on adjacent sites to the east and west. The dwellings to the rear are accessed from a single driveway off Sapcote Road and they are orientated to respond to the siting of existing dwellings located to the west and south east. Their siting, set back a minimum of 45m from Sapcote Road and behind plots 1 and 2 is reflective of the sporadic character of development to the west and north west of the site where development is located beyond the rear boundary line.

Impact on Residential Amenity

Plot 1 would be sited in line with the front building line of 35 Sapcote Road and would extend no deeper into the plot than this adjacent property. There are two windows proposed in the eastern elevation which are proposed to have obscure glazing and would face onto the gable of 35 Sapcote Road which has a non-habitable window in its second floor serving the stairs. Plots 1 and 6, along with detached garage to number 6 are located to the west of no 35 and its rear garden. The proposed development will result in some overshadowing of this property as the sun moves towards the west in the evening. However the overshadowing that would occur would not be considered sufficient to detrimentally affect the amenities of the residential occupiers. The rear elevation of plot 1 would not extend beyond the conservatory sited on the rear elevation of No 35. Whilst the proposal would result in some loss of natural light to the roof of the conservatory and its western elevation, it is not considered that this loss would be so detrimental to significantly affect the amenities of residents of this property.

Plot 2 would be sited further back into the site, in a position between the rear elevation of plot 1 and the front elevations of 23 and 25 Sapcote Road. There are two windows proposed in the side elevation (east) of plot 2 which will face the rear garden of plot 1. The window serving bedroom 2 is sited on the eastern elevation at a distance of 8m from the western boundary to the rear garden of plot 1. The window serving bedroom 3 is sited at a distance of 11m from the western boundary of the rear garden to plot 1. Amended plans have been submitted showing the first floor windows serving bedrooms 2 and 3 to plot 2 replaced with false windows and windows serving those rooms are now sited on the front and rear elevations respectively. The window serving bedroom 3 of Plot 2 would be sited 20m away from and directly facing the front elevation of plot 3, however, it is considered more acceptable than directly overlooking the rear amenity area of plot 1. The front elevation of a property is generally more likely to be subject to overlooking and less private than the rear.

The rear amenity area and elevation of plot 2 would be directly overlooked from windows serving rooms to the front elevations of plots 3 and 4 and does not comply with guidance contained within the SPG which recommends a minimum distance of 25m. This is only guidance and it is considered that as this is a new dwelling, new occupiers when buying the property will consider the amount of overlooking when considering their purchase. It is expected that through the landscaping proposal, landscaping to the northern boundary of plot 2 will be expected to provide some screening for the occupiers.

Plot 3 would be located 13.4m from the front elevation of No 25a at an approximate angle of 45 degrees to the south east. No habitable room windows are proposed in the western elevation of plot 3. Due to the relationship with and position to the south east of plot 3 it is not considered that the proposal would result in overshadowing to the front windows of No 25a. The New Residential Development SPG states that where the principal window of a habitable room faces a similar window of a neighbouring dwelling, either at the front or at the rear the distance between them should be a minimum of 25m. The relocation of a window serving a habitable room to the rear elevation of plot 2 would be located over 35m from the south elevation of no 25a and therefore complies with guidance within SPG.

The views towards the rear garden of 35 Sapcote Road from the front elevations of plots 4 and 5 would be obscured by the position and height (4.2m) of the detached garage to plot 6. Furthermore the separation distances of 30m and 34m from the nearest habitable room windows on the front elevations of plots 5 and 4 to the conservatory of No 35 is in excess of the guidance and therefore it is not considered that the proposal would have a significant detrimental affect on the occupiers of this dwelling. Views to the south east into the rear garden of No 35 from the first floor of plot 6 will be significantly reduced by the projecting gable to its front elevation and the position of the detached garage to the south. Plot 6 and its detached garage would be sited 22m and 10m to the north west of the rear elevation to No 35. Due to their distance from the rear elevation of No 35 and the significant breaks along the western boundary, plot 6 and its detached garage are not considered to give rise to significant loss of residential amenity through the overshadowing or overlooking of the garden to No 35.

Given the siting and spacing between the proposed and existing dwellings the proposed development is not considered to result in an overbearing impact upon neighbouring residential amenity.

Highway Issues

The proposals are to reposition and widen the existing vehicular access from Sapcote Road to the south. This is an existing access which will be sited 5.2m at its nearest point to the vehicular access serving Nos 17-29. It should be noted that beyond the southern boundary of the site there is good visibility from the site looking along Sapcote Road in both directions. Therefore, vehicles exiting the site will be able to view vehicular traffic entering and leaving from adjacent access points, including that serving 17-29 Sapcote Road, reducing the potential for accidents to occur as a result of vehicles entering and exiting both accesses at the same time. The first section of the vehicular access and drive will be 5m wide, thereby providing sufficient space for vehicles entering the site to pull clear of the highway and pass an oncoming vehicle which is leaving the site. There are no proposals to pair the proposed access with the existing vehicular access that serves Nos 17-29 Sapcote Road.

The provision of the turning head will allow vehicles to exit the site in a forward direction, thereby removing the need for vehicles to reverse into the highway.

There are occasions where vehicles have been parked on the highway verge outside the site. Whilst this has the potential to impact on highway visibility there is sufficient space beyond the line of the highway verge for visibility along Sapcote Road to be achieved. It should also be noted that this parking is of an informal nature and does not sustain a reason for refusal of planning permission in this case. The Director of Environment and Transport (Highways) has raised no objections to the proposed development in terms of parking, access, turning and visibility. There is sufficient off-street parking proposed to serve each dwelling to remove the need for vehicles to be parked on the highway verge.

It is noted that the proposed development will increase the volume of traffic movements from the site. However given that Sapcote Road carries a significant volume of traffic on a daily basis it is considered that the contribution this increase in potential vehicle movements will make towards traffic levels on Sapcote Road will be marginal by comparison.

Notwithstanding the size of the integral garages which at 2.5m x 5.5m is below the minimum recommended highway parking standards set out in the 6C's Design Guidance for garages to be classed as an off-street parking space, there is sufficient space to the front of each dwelling for the parking of a minimum of three vehicles.

Developer Contributions

As the site does not make any provision for on site open space, a contribution would be required to improve existing open space within the immediate locality. Such a contribution would be required to meet the CIL tests that ensures the financial contribution request is necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

Core Strategy Policy 19 and Saved Local Plan Policy REC3 seeks to deliver open space as part of residential schemes. 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 once the Green Spaces Delivery Plan has been completed.

To date only the Open Space, Sport & Recreation Facilities Study has been completed and as such the evidence base is not complete to complement Policy 19. Accordingly, this application is determined in accordance with the requirements of Policy REC3, SPD on Play and Open Space and the Green Space Strategy 2005-2010 & Audits of Provision 2007 (Update).

In terms of open space and play policies, Policy REC3 of the Local Plan suggests that direct or indirect (financial) contributions will be expected for open space provision (REC3) on developments of less than 20 dwellings.

As the development relates to six dwellings, there is no requirement for developer contributions towards infrastructure services other than towards public play and open space as required by policy REC3 of the adopted Local Plan and policy 19 of the adopted Core Strategy. However, in this case the application site is in excess of 400m away from any existing informal public open space and therefore does not meet the criteria for the requirement of financial contributions towards the provision or maintenance of public informal children's play space as laid out in the Council's adopted Play and Open Space Supplementary Planning Guidance.

Other issues

Future Development

Concern has been raised that the proposed layout restricts vehicular access to the land located to the north of the application site. Proposals to develop the land to the north of the site and to utilise the private road serving Nos 25-29 Sapcote Road would require planning permission and such an application would be considered on its own merits.

Ecology

The proposals involve the demolition of the existing agricultural buildings. The ecology report submitted with the planning application stated that no protected species were found within the existing buildings or within the site. The Directorate of Chief Executive (Ecology) has raised no objections in relation to the proposed development upon local ecology. However a watching brief note to applicant will be provided to ensure that development ceases in the event that any protected species are discovered during the demolition and construction process.

Drainage

No issues have been raised about potential localised drainage problems. The scheme put forward will be to connect to the existing main sewer for foul water and to soakaway for surface water disposal. Given the location of the site within Burbage there are no issues with connecting to the mains sewerage system. Severn Trent Water and the Head of Community Services (Land Drainage) have raised no objection to the proposal but have both asked for a condition in respect of drainage details to be submitted.

Past uses

Due to the past use of the site for agricultural purposes it would be prudent to impose a planning condition which would require a contamination survey of the site to be undertaken. The imposition of such a condition would be consistent with the recommendations made by the Environment Agency and the Head of Community Services (Pollution).

Demolition and Construction

Noise and dust generated from the demolition phases of development will be restricted to social hours of the day and will only take place for the duration of the works. Therefore noise will be expected during this time and will cease once development on the site is completed. Noise and disturbance from the demolition are considered to be temporary in nature and therefore do not sustain the refusal of the application. Parking for demolition vehicles can be accommodated within the site. There are other statutory controls which exist that control statutory noise, disturbance and pollution.

Loss of View

Impact on view is not a material planning consideration and is therefore not relevant to this case.

Conditions

It is proposed to remove permitted development rights from all of the proposed properties in one form or another. Due to the location of the gardens to plots 3-6 inclusive being within the Green Wedge it is necessary to control the erection of garden structures to maintain the

openness of the Green Wedge. All of the plots do not front a public highway and therefore under the 2008 revisions to the General Permitted Development Order unlimited extensions would be permitted to the front. It is desirable to control this to ensure that any extensions respect the scale and character of the area and does not build over parking provision. Rear extensions to plot 2 could reduce the separation between plots 2 and 3 further which may not be acceptable as the separation distance is considered to be minimal. Suitably worded conditions are therefore recommended.

Conclusion

In conclusion the proposal, by virtue of the built form being located within the settlement boundary, and not being detrimental to the function of the green wedge is acceptable in principle. The design and appearance of the proposed dwellings is considered acceptable and it is not considered that the proposal would detrimentally affect the amenities of neighbouring residents or highway safety. Therefore subject to the imposition of conditions the proposal is considered acceptable.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. The development by virtue of the surrounding form of development, the siting of the proposed dwellings and distances between the proposed and existing dwellings would not detrimentally affect the streetscene, character of the area, function of the Green Wedge, amenities of neighbouring residents or highway safety

Hinckley and Bosworth Local Plan (2001):- Policies RES5, NE2, BE1, T5, T9 and IMP1.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies 4, 6, 16, 19, and 24.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: drawing numbers 11/46/ 02D, 04C, 06C, 07B, 08D, 09B, 12, 13A and 15 received 6 December 2011.
- 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 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development to plots 3, 4, 5 and 6 within Schedule 2, Part 1, Classes, E and F shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

- 5 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) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc)
 - d) planting plans
 - e) written specifications
 - f) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - g) implementation programme.
- 6 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 7 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.
- 8 Before any development commences the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the local planning authority:-
- a) A preliminary risk assessment which has identified:-
 - all previous uses
 - potential contaminants associated with those uses, including landfill gas
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 9 If, during the development, contamination not previously identified is found to be present, development must cease and the Local Planning Authority Notified within 10 working days of the contamination being discovered. Prior to the recommencement of development a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Strategy) shall be submitted to and approved by the Local Planning Authority.
- 10 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use,
- 11 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
- 12 Prior to the occupation of the first dwelling the shared driveway shall have 4 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be maintained at all times
- 13 No development shall commence unless and until a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the dwelling hereby approved can be constructed to a minimum of Code Level 3 has been provided to the Local Planning Authority. In addition, prior to the first occupation of the dwelling hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.
- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) no extensions or alterations (falling within Schedule 2, Part1, Classes A, B and C) to the front elevation of plots 1-6 inclusive shall be carried out unless planning permission for such development has first been granted by the Local Planning Authority
- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development to Plot 2 within Schedule 2, Part 1, Class A, shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To protect the openness and function of the green wedge in accordance with Policy 6 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.

- 5-7 To ensure that the development has a satisfactory visual appearance in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 8&9 The site is within 250m of two former landfill sites and given the previous use the condition is required to protect future occupiers from pollution in accordance with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy EN2 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction in accordance with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 13 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 14 To protect the design, appearance, parking and amenities of neighbouring residents in accordance with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 15 To protect the amenities of neighbouring residents in accordance with policy BE1 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 The landscaping scheme should provide for some screening between plots 2 and 3.
- 5 It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply

WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

- 6 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development.

If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

- 7 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

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

For 'major' accesses - see Part 6 of the "6Cs Guide" (Htd) at www.leics.gov.uk/Htd.
For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.

All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager- (telephone 0116 3050001.)

- 9 Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). This approach involves using a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from a site. This approach can also offer other benefits in terms of promoting groundwater recharge, water quality improvement and amenity enhancements. Approved Document Part H of the Building Regulations 2000 sets out a hierarchy for surface water disposal which encourages a SUDS approach. Further information on SUDS can be found in paragraph F7 of Annex F of PPS25 Development and Flood risk and in the CIRIA C522 document Sustainable Urban Drainage Systems-design manual for England and Wales and the Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS. The Interim Code of

Practice is available on both the Environment Agency's web site at:
www.environment-agency.gov.uk and CIRIA's web site at www.ciria.org.uk.

Contact Officer:- Sarah Fryer Ext 5682