

**PLANNING COMMITTEE**

**7 February 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:** 11/00368/FUL

**Applicant:** Taylor Wimpey UK Limited

**Location:** Land Adjacent To Greyhound Stadium Nutts Lane Hinckley

**Proposal:** ERECTION OF 84 DWELLINGS INCORPORATING ACCESS, PUBLIC OPEN SPACE, BALANCING POND, PUMPING STATION AND ASSOCIATED EARTHWORKS, LANDSCAPING, CAR PARKING AND OTHER ANCILLARY WORKS

**Target Date:** 18 August 2011

**Introduction:-**

This application is to be considered at planning committee, in accordance with the scheme of delegation as it is a major application.

Members may recall that this application was deferred at 13 December 2011 committee, on the request that further discussion be had with the applicant and the Highways Authority regarding highway safety issues, particularly around the Nutts Lane canal bridge.

Application Proposal

This application seeks full planning permission for the erection of 84 dwellings including access, provision of public open space, a balancing pond, landscaping, car parking and pumping station.

The application proposes 84 dwellings consisting of 15 two bedroomed units; 60 three bedroomed units; 3 four bedroomed units and 6 two bedroomed flats over garages. The application includes 17 affordable units (a 20% contribution) consisting of 12 social rented and 5 shared ownership dwellings. There is a mix of detached, semi-detached and terraced dwellings of 2, 2.5 and 3 storey proportions proposed on site.

A new access is proposed to the east of the site from Nutts Lane and car parking is interspersed within the site to provide at least 1 car parking space per dwelling. A pumping station and balancing pond are proposed to the south western corner of the site and swales are in linear blocks through parts of the site (swales are a sustainable drainage solution in the form of a low level ditch). Public open space is proposed to the north of the site bordering Ashby Canal, with landscaping to the south and interspersed within the site.

During the course of the whole application the following has been received:-

- a) Revised layout plan - showing alterations to the canal frontage to include a reduction in the number of car parking spaces immediately adjacent to Plots 24-33 and 41-49 and an increase in vegetation and soft landscaping, amendments to car parking allocation; extension of two footpaths to link up with the southern footpath; indicative positioning of a footbridge to the south east corner of the site; widening of access above house type F1, widening of access drive adjacent to plot 1;
- b) Alterations to house types – addition of chimney stacks; depiction of obscure glass windows; additional garage elevations (Plots 83 and 84); re- positioning of garages and

windows within House Type F (Plots 6, 16, 36, 37, 72, 79), additional windows within Plot 6; Plot 16 and 79 access width widened; removal of quadruple garage from the scheme (garages serving Plots 11-14); additional side windows within House Type X (Plots 61, 65, 70);

- c) Phasing plan – showing the delivery on the scheme in eight phases;

Given the relatively minor alterations of the layout and house types, no re-consultation has been undertaken.

- d) Road adoption plan, safety audit and associated designers response;
- e) Additional drainage details and plans;

Re-consultation has been undertaken with the Director of Environment and Transport (Highways) and the Head of Community Services (Land Drainage);

During the full course of the application, following additional letters of representation and responses from the applicant, throughout the determination of the application, re-consultation has been undertaken with the Director of Environment and Transport (Highways) and the Head of Community Services (Land Drainage).

Since December committee the following has been received:-

- f) Plan showing the off-site highways works to Nutts Lane, including a new footway, new crossing facilities between footways on the opposite sides of Nutts Lane, widening of the existing footway over the canal bridge and introduction of a 'push button' demand all red phase for pedestrians to cross the bridge (as detailed on Revisions K and L);
- g) Updated road safety audit and associated designer's response.

Re-consultation has been undertaken on Revision K with the Director of Environment and Transport (Highways) and those neighbouring residents and parties which have previously submitted consultation responses.

Since that time, Revision L has been received and re-consultation has been undertaken with the Director of Environment and Transport (Highways).

The differences between Revision K and Revision L are that detector loops have been added and kerblines altered.

In addition, an updated Walking Routes to School Assessment undertaken by Leicestershire County Council on 1 December 2011 has revealed that conditions along the canal towpath have deteriorated to the extent that there are significant slip hazards. In respect of the Nutts Lane canal bridge, the assessment states that proposed works to provide a 0.9 metres footway will clearly improve conditions for pedestrians crossing the bridge and that this option could make the route available, however there is a potential for conflict with passing vehicles and pedestrians. As such the assessment recommends a number of options to address these concerns by extending the inter-green in the traffic signal operation over the bridge, a segregated pedestrian crossing and if the footway extension option is pursued it is suggested that a trial arrangement using bollards or temporary barriers should be put in place.

### Site and Surrounding Area

The site is roughly rectangular in shape measuring approximately 2.6 hectares and bounded by mature hedgerows with a single field-gate access from Nutts Lane.

To the south of the site lies the former greyhound stadium, currently under construction for residential development, following the grant of planning permission (ref: 09/01007/FUL). For ease, that application is referred to throughout the report as the Crest Nicholson development.

The site is bounded to the north of the site by the Ashby Canal, to the east by industrial units and to the west by residential development. The Ashby Canal is a designated Conservation Area and the site abuts the Conservation Area boundary.

The site is located outside the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan proposals map (2001).

#### Technical Documents submitted with the application

The application has been accompanied by a draft S106 agreement.

The application submission also includes a comprehensive suite of technical documents for consideration with the proposal. These include: -

#### *Air Quality Assessment*

The assessment reveals that the effect on local air quality of additional road traffic associated with the proposed development and the significance of the introduction of new exposure to pollution was considered to be imperceptible and negligible, respectively. The dust from both the construction and construction vehicles was considered to be negligible, following mitigation.

#### *Arboricultural Survey*

The survey revealed that all trees and hedgerows which lie around the site boundaries are considered to qualify as 'important'. The development would result in the thinning of a dead and dying Elm (G1) in an existing hedgerow; the thinning or removal of one poplar tree group (G5) and the replacement of a hawthorn hedge (G8), all of which were identified as 'Category C' – low quality and value. The report also states that the loss is to be compensated for by the planting of additional trees.

#### *Archaeological Desk Based Assessment*

The assessment states that the site was subject to archaeological evaluation in 2001 and that these investigations have demonstrated that the site (and the surrounding area) does not contain any significant archaeological interest and that no further archaeological measures would be required. Furthermore, the surveys undertaken revealed that there are no identified heritage assets within the site and future development would not adversely affect the site or setting of any such designated heritage asset, including the Ashby Canal Conservation Area.

#### *Design and Access Statement*

The statement details the application site and its surroundings. It considers the proposed development in the context of national and local policy and discusses the previous reasons for refusal and appeal decision on the site, and within the vicinity, concluding that these reasons have now been addressed.

### Ecology Appraisal

The appraisal concludes the site to be of low ecological value, but that the site does support a number of habitats considered to be of low local value including the hedgerows, the dry pond and associated ditch. Great crested newts, birds, bats and the water vole population are not considered to be significantly affected, subject to the imposition of the following recommendations:-

- a) consolidation and enhancement of the existing hedgerows along the southern and eastern boundaries with gap planting with native species and appropriate long term management
- b) additional tree and low level shrub planting with native species and appropriate long term management
- c) a sensitive lighting strategy should be employed across the site
- d) width of the footpaths proposed through the northern boundary hedgerows should be minimised
- e) additional marginal and bankside vegetation and management of habitats
- f) maintain the 15 metre buffer zone between the proposed development and Ashby Canal
- g) re-assessment of the existing pond (currently dry ditch).

### Flood Risk Assessment

The report states that the development is located in Flood Zone 1 and as such is categorised as an area with a 'low probability' of flooding from the nearby water course and that there are no known records of flooding on the site. The assessment acknowledges additional generation of storm run off and identifies that the most likely risk of flooding is from the on-site drainage system, but that the impact has been minimised through appropriate design of the site layout. The assessment makes the following recommendations:-

- a) a detailed ground investigation should be carried out
- b) surface water discharge should be limited to equivalent Greenfield rate of runoff
- c) consideration of the proposed layout; detailed design of the on-site surface water drainage system; detailed design of the proposed SUDS features
- d) future maintenance of the proposed surface water pumping station.

### Landscape and Visual Appraisal

The appraisal describes the topography and existing vegetation on site and views of the site from the surrounding area. It also considers the site in the context of regional and local character assessments, of which it considered Area F of the Hinckley and Bosworth Borough Council's District Character Assessment to be the closest.

### Noise Assessment

The assessment considers that the dwellings adjacent to Nutts Lane facing the industrial estate will require specific noise control measures. The windows serving habitable rooms will need to provide minimum sound reductions, over and above that of the normal thermal double glazing specification and that passive acoustic ventilators can be installed within the walls of habitable rooms. Where private amenity spaces are located behind the dwellings the noise criterion will be met, where not (i.e. plot 84) the use of 1.8 metre high close boarded timber fencing is recommended. The Assessment states that the relevant noise standards are considered to be met throughout the rest of the site.

### Planning Statement

The statement provides an explanation of how the proposal seeks to satisfy the relevant development plan policies and 5 year housing land supply and provides general justification for the proposal given its countryside and edge of settlement location.

### Statement of Community Engagement

The statement demonstrates the ways in which the applicants have engaged with the local community and reviewed the comments received and that the main issue raised in objection to the scheme relates to the traffic along Nutts Lane and that a detailed response is provided within Section 4 in the accompanying Transport Assessment.

### Transport Assessment

The assessment details that the access provision to the development will be via a staggered crossroads from Nutts Lane which was previously agreed to by LCC. Details of the potential vehicle movements to and from the immediate site as well as the impacts upon the wider road networks have also been considered with the following findings:-

- a) the Nutts Lane/Hammond Way junction and the A5 Watling Street/Hammond Way roundabout operate within acceptable thresholds of capacity
- b) the Nutts Lane/Coventry Road junction operated outside acceptable thresholds under all PM scenarios modelled, however the impact of the development traffic at this location is considered minimal and as such no mitigation measures have been proposed
- c) the Canal Bridge was considered to be complex at PM peak hour and it is therefore proposed to install MOVA (Microprocessor Optimised Vehicle Actuation) and relocation of the northbound stop line, if necessary.

The Assessment also states that an upgrade to the pedestrian provision over the Nutts Lane canal bridge is proposed and that contributions to be provided include travel packs, up to 2 six month bus passes per household, bus shelters and improvements to the canal bridge.

### Travel Plan

The travel plan provides details of the implementation of sustainable travel measures; the main objective being to reduce single occupancy car trips by 10% over a three year period in favour of more sustainable modes of transport and that the sustainability of the site in transport terms will be improved.

### Additional Information

The applicant has provided responses to a number of concerns raised, during the course of the application up until the December committee.:-

Highways and Traffic – The applicant states that the various traffic related issues, including the signalised pedestrian crossing of the canal bridge, have been fully considered by Leicestershire County Council Highways who have no objection to the application and there are no issues that would prevent the connection of the site with the towpath.

Flood Risk and Drainage – The applicant has approached Crest Nicholson on the adjacent site to enable a connection to be made. However, the applicant states that Crest are continuing to hold out for a commercial position over the development and therefore the pumped solution on which the application has been based was therefore their only deliverable and commercially viable solution to enable development of the site. The

applicant states that the drainage solution has been designed to accommodate the storage required in both the 1 to 100 year plus 30% climate change storm event and that the pumped solution has been agreed by the Environment Agency and Severn Trent Water have also confirmed their willingness to adopt the pumping station. The applicant also provided additional information to state that the outstanding issues would be addressed through the detailed design/technical approval process and that the swales are to be adopted by the Borough Council as provided within the draft S106 Agreement.

Public Open Space – The applicant states that the existing equipped play area within the Waterside Park development also lies within 400 metres of the site and the contribution could legitimately be applied to additional equipment there.

Integration with Surrounding Development- The applicant states that connection to Waterside Park and the former Greyhound Stadium is not possible due to strips of land being retained by Crest Nicholson in order to provide a further commercial position over the development. The applicant also refers to the fact that the planning permissions for the adjacent developments did not include a requirement to provide such connections to the boundary and as such they cannot be delivered under this planning permission.

Noise and Disturbance – The applicant acknowledges that whilst the Noise Assessment did not specifically assess the surface water pumping station, the potential impact on adjacent properties is minimal as all plant will be provided within the acceptable specification and will in any event, be located below ground and that provision of noise attenuation fencing to the pump station compound will provide an enhanced level of attenuation.

Pedestrian Movements – The applicant states that the application included a proposal to improve the traffic signals at the Nutts Lane canal bridge that would enable an ‘all red’ traffic phase that would enable the safe passage of pedestrians to cross the bridge as well as improving the existing traffic conditions, but that Leicestershire County Council Highway Authority were not able to justify the proposed improvements due to the absence of any personal injury accidents and the small level of increase in the numbers of pedestrians on this section of the highway as a result of the development.

Following further assessment by Leicestershire County Highway Authority, the applicant was then willing to consider making a contribution towards the County Council’s more recent preferred solution for the construction of a new pedestrian footbridge, providing this was not worded to prevent the occupation of the development, as the applicant would be reliant upon works that they consider outside of their control. The applicant re-confirms that the proposed ‘all red’ signalised crossing is the most appropriate and deliverable solution.

**Relevant Planning History:-**

The site has been subject to three outline planning applications, all which have been recommended for refusal by the Borough Council.

06/00786/OUT	Residential development with means of access	Refused (Dismissed at appeal)	14.07.06
00/01214/OUT	Residential development	Refused	08.11.01
99/00514/OUT	Residential development and means of access	Refused	13.10.99

The earliest application (ref: 06/00786/OUT) was tested at a public inquiry before an Inspector, and was later dismissed. The issues that were considered by the Inspector were:

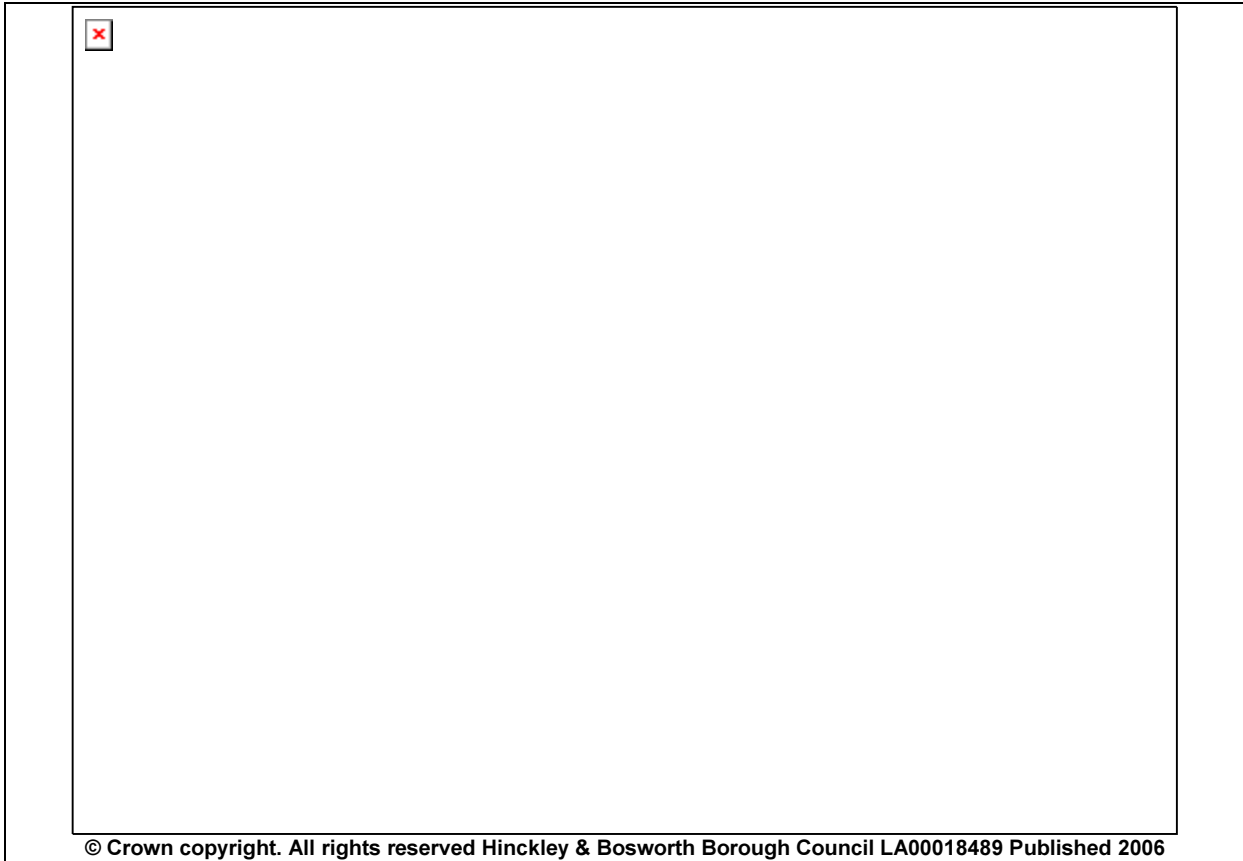


- a) whether, having regard to prevailing policy and housing land supply, there are material considerations that would be sufficient to outweigh the general presumption against development in the countryside
- b) the impact of the proposed development on the character and appearance of the surrounding area
- c) whether adequate living conditions could be created for the occupiers of the proposed dwelling, with particular reference to noise from nearby commercial activities.

The discussions within the appeal were as follows:-

- a) The site is designated as countryside in the Local Plan. 117 dwellings would bring some economical impacts to Hinckley but those would not justify development being permitted under Policy NE5 so the development conflicted with the Local Plan and Structure Plan;
- b) The appellant claimed the area was no longer open countryside following Crest Nicholson development but the inspector saw that the area was still semi rural and less obscured than the nearby Crest Nicholson and Industrial Estate so the development would change the area to wholly urban;
- c) This development would also go against government guidance by allowing 117 dwellings here it would discourage brownfield sites being identified elsewhere;
- d) It fell outside the settlement boundary and the boundary can not be altered through the appeal process;
- e) The Council's reason for refusal relating to noise from the nearby industrial estate, particularly Morris and Sons, greengrocer, could be overcome through mitigation measures such as the design/layout of those dwellings most affected.

The Inspector concluded that "The appeal site is in a Greenfield location outside of the defined settlement boundary of Hinckley, in an area where policy restricts development to that with an essential rural justification. In addition, to the general presumption against development in the countryside, I have concluded that the development of the land for housing, as proposed, would harm the character and appearance of the surrounding area and the setting of the Ashby Canal Conservation Area. Bearing in mind the advice at paragraph 69 of PPS 3, and the existence of a 5-year supply of deliverable housing sites in the Borough, there are, on balance, insufficient material considerations to outweigh the conflict with policy in this case. I find that the proposed development is, accordingly, unacceptable."



**Consultations:-**

No objection has been received from:-

Highways Agency  
Directorate of Chief Executive (Archaeology)  
Head of Corporate and Scrutiny Services (Green Spaces)  
The Borough Council's Arboricultural Consultant.

No objection subject to conditions/recommendations have been received from:-

Director of Environment and Transport (Highways)  
Ashby Canal Association  
The Inland Waterways Association  
British Waterways  
Environment Agency  
Severn Trent Water Limited  
Leicestershire Constabulary Crime Reduction Officer  
Directorate of Chief Executive, LCC (Ecology)  
Head of Business Development and Street Scene Services (Waste Minimisation)  
Head of Community Services (Land Drainage)  
Head of Community Services (Pollution).

The Director of Environment and Transport (Highways) latest revised observations received on 25 January 2012 recommends approval, subject to a number of on and off-site related conditions including highways improvements to Nutts Lane and the canal bridge, upon which the recommendations in the report are now based.

Ashby Canal Association accepts the principle of residential development and accepts the visual intrusion on walkers and boaters to be minimal but considers that funding should be secured to improve the towpath and that a useful connection should be secured with the provision of the footbridge from the Sketchley Brook development. Ashby Canal Association also agrees with a reduction in the height of the dwellings to 2.5 storey facing the canal frontage and raises concerns over congestion and visibility issues regarding the canal bridge, one access and lack of links to any adjacent developments.

The Inland Waterways Association accepts the principle of residential development, but is concerned to minimise the impact of the housing on the canal corridor and the further loss of its previously rural surroundings and considers that the dwellings facing the canal frontage should not exceed 2.5 storeys.

British Waterways have no objection to the scheme, subject to the imposition of planning conditions, including the retention of the existing hedgerow, hard and soft landscaping proposals including details of protective fencing during construction, and a lighting scheme. British Waterways have also confirmed that they would expect the Local Highway Authority, Local Authority or the developer to fund any necessary improvements to the towpath to the north west of the site as a designated safe route to school.

The Environment Agency have no objection, providing conditions are imposed to ensure the development is carried out in accordance with the Flood Risk Assessment, a scheme for surface water drainage for the site and details of trapped gullies are first submitted to and approved by the Local Planning Authority.

Severn Trent Water have no objection subject to the imposition of planning conditions and have confirmed that they would, in principle, be prepared to adopt the pumping station provided it meets both their and the Water Industries standards and would be able to confirm this upon receipt of plans and specifications.

The Leicestershire Constabulary Crime Reduction Officer has raised concerns in respect of plots orientation and design features offering little surveillance to key areas and has stressed the importance of an acceptable management procedure for the future security of the open spaces and has requested a condition for a street lighting scheme to be submitted.

The Directorate of Chief Executive, LCC (Ecology) states that the recommendations within the accompanying documentation should be endorsed and that the width of the footpaths through the hedgerow to the north of the site should be minimised, the balancing pond should be re-sited to the north of the site, that a re-assessment of the dried out pond prior to the works should be undertaken and that no surface run off should be allowed to enter the canal from the application site.

The Head of Business Development and Street Scene Services (Waste Minimisation) has concerns over the suitability of the designated waste/recycling points and has requested that a condition be imposed requiring a scheme to be submitted.

The Head of Community Services (Land Drainage) has re-confirmed that the construction and operational details of the swales and attenuation basin are satisfactory, is satisfied that the failure of the pumped outlet control will not lead to the flooding of the development and that there is in principle adoption for the landscaping and Sustainable Urban Drainage Systems (SUDS) features and pumping station.

The Head of Community Services (Pollution) states that in respect of air quality the accompanying air quality assessment is based upon traffic figures and therefore dependent upon the Highways Authority accepting the predicted traffic flows. As such, should the

figures be changed the assessment must be revised and that the recommendations of the noise survey should be adhered to. Therefore the Head of Community Services (Pollution) recommends conditions to secure a construction environmental management plan, specifications in windows to reduce noise and passive acoustic ventilation measures.

As a result of the Developer Contributions consultation, Leicestershire County Council has the following comments:-

- a) Director of Children and Young Peoples Services (Education) states that in respect of primary schools there are a number of schools within a two mile walking distance but that overall there is a deficit and a request for a contribution for the Primary School sector of £229,881.19 is sought. No contribution is being sought for high school given an overall surplus for the area. In relation to upper schools, a deficit of 8 places is created by the development resulting in a contribution of £146,841.28
- b) Director of Environment and Transport (Civic Amenity) states that the development would generate additional civic amenity waste at the Barwell Civic Amenity site a contribution of £3,883 is sought
- c) Director of Adults and Communities (Libraries) in respect of additional users of the existing library facilities at Hinckley Library on Lancaster Road a contribution of £5,140.00 is sought
- d) Director of Environment and Transport (Highways) states that travel packs at £50.18 can be supplied by Leicestershire County Council equating to £4,215.12; the provision of 6-month bus passes (2 application forms to be included in each Travel Pack to be funded by the developer at £331.20 with an estimated maximum 25% uptake equating to £13,910.00) and £9,348.00 for two bus shelters at the two nearest bus stops
- e) Chief Executive (Ecology) does not request any financial contributions.

The Primary Care Trust requests a contribution of £35,348.54 towards the provision of health care facilities at Burbage Practice, Tilton Road, Burbage including an additional consulting and treatment space and other associated works.

British Waterways requests a contribution of £125,000.00 towards towpath widening and surfacing and replacement of the existing bank protection with hard wearing geotextile bank. Following re-consultation British Waterways have sought a total of £45,000.00 for towpath widening and surfacing only.

The Leicestershire Constabulary Crime Reduction Officer originally sought a total contribution of £32,864.00 and requested the following:-

- a) Street signs and a smartwater property marketing kit - a contribution of £1,260.00 is sought
- b) Speed gun to be used on the beat – a contribution of £2,500.00 is sought
- c) 2 x digital lamppost mounted speed sign – a contribution of £6,000.00 is sought
- d) 2 x automatic number plate recognition cameras - £14,000 is sought (plus maintenance fees of £450 over five years) totalling £18,500.00
- e) 2 x mobile data terminals – a contribution of £4,040.00 is sought
- f) Cycle equipment – a contribution of £544.00 is sought.

Following re-consultation the Leicestershire Constabulary Crime Reduction Officer has now confirmed that a developer contribution will no longer be sought.

The Head of Corporate and Scrutiny Services (Green Spaces) has requested £174,364.67 for the provision and maintenance of formal open space and children's equipped place space and the maintenance of informal children's play space and £30,526.84 for the maintenance of the adopted landscaping areas.

Site notice and Press notice were displayed and neighbours notified.

19 original letters of objection were received within the statutory consultation period raising the following concerns:-

- a) the reduction from 100 dwelling to 84 should not warrant a reason for approval
- b) loss of farm land; the last green open space will be destroyed
- c) the 'sheep field' offers an open, safe play field away from vehicles in a health environment and is the final green field left in the area; the council have acknowledged this in previous applications
- d) no provision for a woodland or playing field or park in the area; this site could have been used for recreational purposes
- e) the final green area will destroy any opportunity for the local community to fund raise for help
- f) area is overdeveloped already; the development would have far less effect in other locations in Hinckley
- g) lead to a lowered quality of life
- h) open aspects from properties will be lost; loss of view; reduction in property price as a result of loss of view
- i) loss of privacy and overlooking from 2.5 and 3 storey properties directly opposite; the hedge along the western boundary is insufficient to deter overlooking
- j) request amendment to site layout to have the proposed housing fronting the western boundary or re-location of the Play and Open Space or balancing pond
- k) development adds no benefit to the area; no public social infrastructure has been provided; no benefits have been made by the developer
- l) "significant financial contributions are being given to the council backhanders"; "bribes;"
- m) the balancing pond area should not be considered as part of the provision of open space; problems over future adoption
- n) site is on a flood plain; drainage problems; further flooding is likely
- o) the hydraulics of the ditch and associated culverts have not been assessed in its entirety to determine suitability from site discharge to watercourse outfall; unable to demonstrate a satisfactory drainage strategy to ensure the Crest Nicholson development to the south will not be at risk from flooding; insufficient detail and further investigation required into the proposed outfall
- p) Insufficient evidence in terms of future maintenance of the pumping station and emergency procedures to be put in place for failure of the system
- q) balancing pond can be dangerous to the public and subject to flash flooding and not fenced off
- r) there should be no public access to the tow path due to children and danger
- s) size of the proposed development will impact on the ecology and wildlife of the site
- t) detract from tourism
- u) no assessment undertaken of the potential noise and disturbance from the pumping station
- v) unable to secure a financial contribution towards the equipped play space at the Crest Nicholson development as not within the ownership of the Borough Council
- w) the scheme does not make sufficient provision for green space and play provision in accordance with Policy 19 within the core strategy
- x) does not integrate with the surrounding development; no alternative vehicular and pedestrian access arrangements
- y) Flood Risk Assessment and Drainage Strategy are insufficiently detailed.

The following concerns are all raised in respect of highway issues:-

- a) does not provide a safe vehicular access

- b) no cycle provision made on the towpath; towpath is very narrow and can be dangerous for pedestrians and cyclists; developer should be required to upgrade the towpath
- c) access from Nutts Lane is flawed, contrary to PPG13 and PPS3
- d) existing insufficient road capacity; already at full capacity; if the Nutts Lane/Coventry road junction is acknowledged to be operating outside acceptable levels currently then how can the development not have a significant effect on it?
- e) impact of volume of pedestrian and vehicular traffic from site (and adjacent developments) leading to congestion and impacts and creation of 'rat run'
- f) impacts over volume of traffic upon the Nutts Lane Canal Bridge and wider impacts upon the A5 and Coventry Road junctions; traffic in the surrounding area should be re-routed; block off Nutts Lane from the A5
- g) widening of canal bridge required; insufficient width for pedestrians and cyclists; no footpath over the canal bridge; are estimated walking times taking pushchairs/disabled users into consideration
- h) the assessment does not comply with HA requirement for connectivity with neighbouring developments; alternative vehicular and pedestrian access arrangements into the site could be secured via Waterside Park Phase 2 to the west or the development being constructed on the Crest Nicholson site to the south
- i) current state of road surface of Nutts Lane is unacceptable and without considerable remedial work would not be able to withstand the increased usage
- j) 200 year old bridge could collapse; no or little attention has been given to the state of repair of the bridge; application should be put on hold until this action has been undertaken; Weight restriction should be added to the bridge; Bridge should be given higher conservation status
- k) the proposals to alter the traffic light sequence is ill conceived; how long will the 'all red traffic stage' be as part of the changes proposed to the traffic light sequence over the canal bridge? – as a pedestrian could find themselves caught between the bridge. This is a further problem for the disabled and pushchairs
- l) a pedestrian controlled light crossing is required; A separate footpath constructed or a footbridge on either side of the bridge with a ramp access is required
- m) canal bridge should be blocked off with removable bollards (and this would be easier than changing the traffic light sequence)
- n) why are studs being inserted into the road? And these are likely to be worn away very quickly
- o) it is not clear what mitigation measures will be carried out in respect of highway movements and safety; no information on any upgrade works to Nutts Lane and/or Nutts Lane/Coventry Road junction; if there are proposed off-site upgrade works proposed then local residents should be made aware and relevant plans/information provided
- p) regular maintenance to cut trees should be enforced to allow a better view of the road; Signage and traffic lights in themselves pose obstacles to foot traffic
- q) do not consider that a sophisticated form of control of the shuttle signals will overcome the 'platooning' problems
- r) Nine vehicles, not the eight identified within the report
- s) increase in % of vehicle flows and the impact of this increase
- t) congestion is a material considerations and congestion amounts to a reason for refusal
- u) the TA does not quantify the likely number of additional pedestrians and cyclists who might use Nutts Lane
- v) the analysis of the effect of the traffic and the conclusions drawn from the TA are fundamentally flawed
- w) traffic generation is fundamentally flawed; concerns over the delay times identified
- x) has the applicant the right to connect directly from the site to the right of way to the towpath
- y) the towpath needs to be surfaced, lit, safe and suitable for use by people with mobility or visual considerations and needs to be available from the outset so that the very first residents have the benefit of being able to use this route

- z) removing the road studs and relying on pedestrians having to 'call' the pedestrian phase will not overcome the additional safety hazards
- aa) inability to provide tactile paving will be a major issue for the visually impaired
- bb) Crest Nicholson would be willing to make available pedestrian, cycle and vehicular links as reported on by Highways, subject to an appropriate commercial arrangement and that Taylor Wimpey has made no such approaches to Crest Nicholson to establish what such commercial arrangements may be.

A petition containing 79 signatures objecting to the scheme has been received but does not contain details of the specific reasons for objection.

County Councillors David Bill and Don Wright have written a joint letter, raising the following issues:-

- a) excessive problems of queuing, grounding of lorries on the canal bridge and lack of footpaths
- b) proposal will lead to significant material increase in pedestrian, cycle and vehicular movement and the potential conflict between such road users
- c) existing pedestrian and cycle provision is inadequate; a new pedestrian and cycle crossing should be proposed over the canal, and new pedestrian and cycleway facilities all the way from the A5 to Coventry Road
- d) traffic lights should be installed at the junction of Coventry Road and Nutts Lane
- e) all red proposed traffic lighting scheme is likely to lead to some users not being able to cross the canal bridge in time; at the very least lights should be pedestrian controlled
- f) garages and turning facilities should be adequate.

Councillor David Bill has also provided details of a search (dated 25 January 2005) from a nearby property No.11 Canal Way which shows areas of "potentially infilled land (water)".

Following the expiration of the statutory consultation period, further letters of objection have been received raising the following concerns:-

- a) the paramount issue in this application should be the safety of the public who will walk across the bridge
- b) signs illustrating no footpath both face the same way – this is a large and inexcusable mistake
- c) HGV and articulated, 40 tonne vehicles use the bridge
- d) pedestrians have just 0.8 metres width; a footpath should be no less than 4 feet wide
- e) no clear vision across the bridge
- f) width restriction should be enforced by County
- g) the A5 rail bridge and the Nutts Lane are the same
- h) the HGV's that cross the canal bridge have not been observed entering the industrial estate
- i) Nutts Lane is now and will remain a 'rat run'
- j) mistakes made at the time of the Crest Nicholson application; did not ensure they were required to provide improvement works to the canal bridge or footway.

Other letters have referred to solutions to the problems:-

- k) increase width of footway for pedestrians but also to restrict the vehicular width
- l) place a speed limit on traffic crossing the bridge – suggest 12mph
- m) have a pedestrian controlled light sequence (in combination with an increase footway)
- n) developer could be required to pay for these solutions
- o) re-surface Nutts Lane (north), add lower horizontal bar on fence east side and repair upper bar where required and fit signage at the wharf to state no through road

- p) install two fixed bollards at both the north and south of the canal bridge to pedestrianise it
- q) install pavement/footway on the west side of Nutts Lane (south) from base of bridge to railway bridge, widen roadway to conform to standard regulation width
- r) install lighting under the railway bridge
- s) paint edge of pavements white to improve visibility for pedestrians and vehicles
- t) remove throttle and widen roadway south of the railway bridge, install basic pedestrian road crossing where pavement discontinues on east side and begins on the west side
- u) alter priority junction of Nutts Lane (after routed south east) and Hammond Way to give Nutts Lane traffic priority to ease the flow of traffic
- v) install signage.

One letter has set out the existing and proposed dimensions of the canal bridge.

A further petition containing 11 addresses objects to the fact that Leicestershire County Council as Highway Authority are recommending approval and do not propose any safety improvements for pedestrians over the bridge and that Hinckley and Bosworth Borough Council are minded to approve the application.

Prior to the 13 December 2011 committee, four additional letters has been received raising the following concerns:-

Letter one raises the following concerns:-

- a) in the whole Saxon Paddock area the only play space provided is 1.5 acre resulting in a deficit of 2.5 acres
- b) asks why the financial contributions obtained from the Crest Nicholson application was not used for the purchase and facilities for the Sheep field
- c) all decisions are contrary to the Council rule [Policy REC3] that children do not need to cross a busy road
- d) the decision to use funds from this application on Langdale Road Recreation Ground is deeply flawed as there is no safe pedestrian crossing
- e) where can we use an open space contribution if we've allowed all the open space to be developed?
- f) request that the Council give constructive positive help by allowing the opportunity of use of these funds to rent the open space for primary short term minimum lease
- g) give us help on this issue to help our community and not give away the benefits whilst inflicting the disadvantages.

Letter two raises the following objections:-

- a) the application should be refused if the Nutts Lane/canal overbridge is not suitable to handle additional traffic, especially during peak periods
- b) the land acts as a green pocket for wildlife, especially importantly being next to the canal
- c) the land helps with the run off of surface water
- d) increase risk of railway bridge strikes by construction and resident vehicles
- e) impacts on the canal from additional noise.

Letter three discusses the request under the Freedom of Information Act to Leicestershire County Council Highway Authority to provide a copy of the Risk Assessment Guidelines and the Risk Assessment carried out in respect of Safe Walking Routes to and from School has been received and raises the following points:-

- a) the canal towpath in its current state could not be walked in reasonable safety due to the weakness of the water edge banking in some places; the fact that there is only a very narrow strip of soil based pathway; that this strip of soil based footway becomes very



- slippy in wet weather and in places puddles form; either side of this soil pathway are strips of grass which are long in some place; no lighting; no fencing at the water edge
- b) in respect of available routes, public footpaths, bridleways and byways the factors of safety must override its inclusion in the Risk Assessment
  - c) the statements made in respect of footway in itself 'rules out' the towpath in its current state
  - d) the absence of street lighting must be interpreted in its literal sense, therefore the absence of lighting on the tow path must and does become a real factor
  - e) recommends the following conditions:-
    - an appropriate width footway over the canal bridge be put in place
    - safe crossing facilities for pedestrians must be put in place which can only realistically be achieved by having an all red phase to traffic and a green cross now light signal, pedestrian control works at Coventry Road
    - the provision of a recognised and appropriate width footway over the canal bridge will have an impact on the type of vehicle that can use the bridge and therefore LCC highways must and should concede that a width restriction should be put in force legally
    - a width restriction refusal by LCC Highways cannot be justified on the grounds of lorries needing to go under the rail bridge on Nutts Lane
    - the A5 rail bridge is the same height as the Nutts Lane rail bridge and the issue with the A5 rail bridge is an adverse camber, the resolve of this should be actively pursued by LCC, HBBC and Councillors
  - f) disagree with the planning application on the grounds of retaining green spaces, but accept the pressures on the Local Planning Authorities through Government Legislation.

Letter four raises the following objections:-

- a) previously raised issues about the Transport Assessment prepared in respect of the application and in particular the difficulties of proving a safe and convenient pedestrian route to the north
- b) the committee report confirms that the bridge is not considered to be a safe walking to school route
- c) the committee report suggests that pedestrian and cycle links cannot be achieved to Waterside Park due to the presence of third party land in Crest's ownership and the applicant has made no approach whatsoever to Crest to see whether such links might be secured
- d) in respect of pedestrian links to the towpath, Highways make no reference to these links requiring a commercial agreement with British Waterways
- e) there is no certainty of being able to achieve links either to the towpath or to Waterside Park and therefore no suitable walking to school route available
- f) the substandard nature of the 'hardened verge' (not a footway) over the canal bridge are clearly identified in the Safety Audit but the width of the bridge does not permit these problems to be properly addressed
- g) at the very least there should be a further condition attached to any planning permission requiring the pedestrian linkages to the canal towpath and or to Waterside Park to be provided and available for public use before any part of the development is occupied.

Prior to this 7 February 2012 planning committee, as a result of re-consultation being undertaken with interested parties over the changes to the canal bridge, the following concerns have been raised:-

- a) three storey dwellings will be facing into homes and looking directly into the homes of the residents on Canal Way
- b) loss of outlook
- c) destroy the natural environment where many different species of wildlife live
- d) Ruin the enjoyment and relaxation for existing residents of where they live
- e) de-valuation of properties
- f) Langdale Recreation Ground is impractical, dangerous and there is a mis-use of funding and the Council has not shown an equal attitude towards alternative sites
- g) there is a shortfall of playing fields in Saxon Paddock
- h) any parent would dispute that a child cannot walk 400 metres to 1 km to a playing field;
- i) developers need to listen to the community who know the area well
- j) the rain run off area has not been addressed, special drainage has been built for neighbouring residents; taking away more land and areas that naturally absorb; increase likelihood of flooding
- k) access onto the canal towpath, being owned by British Waterways could create questions in law as British Waterways are under no obligation to grant access from private land onto the public tow path
- l) are the developers prepared to insure users of the tow-path accessing their development against injury or are others to accept full liability?
- m) British Waterways will cease to exist, a new charity called the Canals and Rivers Trust will be set up; this change may mean that the focus will be on safety and maintenance
- n) the safety of the canal tow path from the site needs to be at the forefront of the deliberations at the next planning committee
- o) access to the towpath is to give rise to safety issues for children; if the application is to be approved then it should be on the grounds that the access to the canal tow path is excluded
- p) only one point of exit and entrance; amended plans still show access onto Nutts Lane, which would be ludicrous; request that the access be removed from the plan or a locked gate be provided
- q) Hinckley and Bosworth Borough Council should have supported cul-de-sac plan with permanent bollards and proper pedestrianisation
- r) cost, land ownership and practical difficulties prevented the provision of a pedestrian footbridge over the canal.

In respect of the off site works to Nutts Lane and the Canal Bridge the following specific comments have been made:-

- a) the absence of fatal or other accidents in the past five years is no indication of future pedestrian trends and should not be used to determine that pedestrian safety is not an issue
- b) there will be a further 85 properties, bringing about an 800% increase in the potential foot traffic
- c) the current condition of Nutts Lane is in need to repair and would not be able to cope with additional traffic
- d) the independent review into the traffic flows etc was conducted at a quieter time of day, and therefore not a true reflection of the large amount of traffic
- e) by addressing the pedestrian problem, other problems are created in the form of traffic delays
- f) Coventry Road is horrendous to navigate, traffic will now need to wait longer and result in gridlock
- g) no information about how long the 'all red light' will stay operative to allow pedestrians to cross; pedestrians must be given time to cross, but also with good visibility
- h) no mention of how pedestrians can cross from one side of the carriageway to the other side, a solution to this issue must be considered; it must be recognised that a person

- crossing the bridge, using the on demand facility will need to cross the road from the proposed side, cross the bridge, cross the road on the other side
- i) provide a pedestrian 'on demand crossing point' at the point where traffic is halted on the Coventry Road side of Nutts Lane, this would then take pedestrians over to a newly installed footway, which will run alongside the carriageway towards Coventry Road and join the existing footway
  - j) no mention of dangerous gaps in the fencing alongside the canal arm
  - k) no mention is made of provision for the visually impaired in the vicinity of the push button
  - l) footway will still be substandard
  - m) there is no legal minimum width of a footway in such scenario as Nutts Lane i.e. on existing roads or over a canal bridge on its age
  - n) the Safety Audit identifies that because the footway will be of a substandard width, it is likely that pedestrians will, on occasion, walk in the carriageway; What is the point of widening, but then expecting pedestrians to walk in the road?
  - o) does not deliver a suitable safe pedestrian route option to/from the site suitable for the safe route to school and for use by the mobility impaired
  - p) will be a highly dangerous area for pedestrians and motorists
  - q) a 900 mm wide strip is the only practical pedestrian route, the Manual for Streets states that a width of .09 m is only just sufficient to accommodate a wheelchair and there is a real risk that a wheelchair user could "topple off" the edge of the kerb
  - r) a 900 mm wide strip does not allow sufficient width for an adult and a child to walk side-by side
  - s) the safety audit has highlighted that widening the raised kerb will bring pedestrians closer to vehicles; the widening of the footway would lead to less clearance and with a HGV 'overhang' there is a greater risk that vehicles would mount the kerb and greater risk of pedestrians coming into contact with vehicles; the wing wall on the west side could be hit and some debris falling into the canal or on to the tow path; pedestrians could be hit
  - t) closing Nutts lane to through traffic, all red traffic light phase with pedestrian at will crossing phases, placing a weight limit on the bridge, placing a width restriction on the bridge, providing a pedestrian bridge crossing were all proposed to and dismissed by LCC Highways
  - u) the situation is unclear; the works propose an on-demand all-red phase for pedestrian crossing of the canal bridge, as does the TA, however the Director of Environment and Transport (Highways) previously opposed this
  - v) LCC Highways have not shifted far enough; clearly LCC are money focused and not safety focused, so failing in their duty of care; the issue comes down to money to provide 'width' or 'weight' restriction signs to prevent HGV's use of Nutts Lane
  - w) there are no recommendations regarding the type, weight, size etc of vehicles and therefore pedestrians will be at risk; further concession of a width restriction for traffic allowed to cross the bridge
  - x) Nutts Lane is not the official diversion route
  - y) no direct pedestrian access so that children from the new estate can access Waterside Park
  - z) Taylor Wimpey has not approached Crest Nicholson to discuss securing potential access via their land
  - aa) Crest Nicholson wish to make clear that Crest Nicholson has recently submitted a planning application ref: 11/01002/FUL) for a proposed footpath extension to Paddock Way, the extension of the footpath from the existing Waterside Park development into the Nutts Lane site will offer a far more suitable safe pedestrian route than the proposed pedestrian crossing of the canal bridge and shows Crest Nicholson's willingness to assist with securing more appropriate links between Waterside Park and Taylor Wimpey's proposed development at Nutts Lane
  - bb) recommend that a Grampian style condition be imposed which requires a footpath link to be secured to Waterside Park and made available prior to the occupation of the proposed dwellings

cc) the extension of the footpath from the existing Waterside Park development into the Nutts Lane site will offer a far more suitable safe pedestrian route than the proposed pedestrian crossing of the canal bridge.

## **Development Plan Policies:-**

### 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.

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 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 5 (PPS5): 'Planning for the Historic Environment' indicates that local planning authorities should consider the impact of any proposal on any heritage asset and that there should be a presumption in favour of the conservation of designated heritage assets. Heritage assets include Listed Buildings and Conservation Areas including their setting.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' seeks to ensure that development in the countryside is sustainable, and that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled. The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

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.

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 rural renewal, social and community inclusion, health and well-being and promotes sustainable development. The PPG encourages development for sport and recreation in appropriate rural locations.

Planning Policy Statement 23 (PPS23): 'Planning and Pollution Control' sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance Note 24 (PPG24): '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 (PPS25): 'Development and Flood Risk' aims to ensure that flood risk is taken into account at all stages in the planning process and to reduce flood risk to and from new development through location, layout and design incorporating sustainable drainage systems (SUDS).

### 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

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' set the development intentions for Hinckley, which includes the allocation of land for the development of a minimum of 1120 new residential dwellings and address the existing deficiencies in the quality, quantity and accessibility of green space and play provision in Hinckley as detailed in the Council's most up to date strategy and the play strategy, particularly in the south west and north east of Hinckley. New

green space and play provision will be provided where necessary to meet the standards set out in Policy 19.

Policy 15: 'Affordable Housing' seeks the provision of Affordable Housing on residential proposals within urban areas at the rate of 20% with a tenure split of 75% social rented and 25% intermediate housing.

Policy 16: 'Housing Density, Mix and Design' seeks to ensure that all new residential development provide 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 Hinckley.

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 is outside of the settlement boundary of Hinckley, as defined in the adopted Hinckley and Bosworth Local Plan.

Policy NE5: 'Development within the Countryside' 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.

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

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 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 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 IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities' requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

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.

Policy REC2: 'New Residential Development – Outdoor Open Space Provision for Formal Recreation' requires all new residential development to provide outdoor play space for formal recreation.

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

Policy T3: 'New Development and Public Transport' states that where planning permission is granted for major new development provision will be made for bus access and appropriate supporting infrastructure.

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 T11: 'Traffic Impact Assessment' requires developers to provide a traffic impact assessment for development likely to generate significant traffic flows.

#### 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.

The Council's Supplementary Planning Document (SPD): 'Affordable Housing' provides the background and approach to the Borough Councils delivery of affordable housing.



## Other Material Policy Guidance

### Draft Site Allocations and Generic Development Control Policies DPD 2009

The application site was publicised as a preferred option for residential development in the Draft Site Allocations and Generic Development Control DPD (February 2009). The Site Allocations Preferred Options Document was subject to public consultation during 2009. This does not however, provide justification for permitting development ahead of the plans adoption as explained in Para 17, of ODPM's Planning System General Principles guide. Concern is raised that permitting this site could be considered premature and potentially set a precedent for other sites coming forward, thus undermining the LDF process. It is considered that at present the Site Allocations Document carries little weight.

### Strategic Housing Land Availability Assessment (SHLAA) Review 2010

The SHLAA Review 2010 was published in April 2011 and the application site (AS293) was assessed through this process. The site was identified as suitable, available and achievable and, as a result, developable. In addition, a comment made within the SHLAA regarding this site noted 'Site is suitable because site is adjacent to settlement boundary and an appeal decision on the site has noted the site can not be classed as in open countryside. Regard must be had to adjacent Ashby Canal Conservation Area and the findings of the conservation area appraisal'.

### Landscape Character Assessment July 2006

Notwithstanding the applicant's identification of the site being within the closet proximity to Area, the site is located within the Stoke Golding Vales Character Area (Area E). Area E covering Stoke Golding, Higham on the Hill, Dadlington and Stapleton is described as being distinctly rural and largely tranquil, of high sensitivity with limited capacity for change.

### Ashby Canal Conservation Area Appraisal

The Appraisal identifies a 30 metre margin being required for new development sites within Hinckley in order to maintain the canal's semi rural appearance within the town.

### Hinckley Town Centre Area Action Plan 2011

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21st March 2011, as such, it currently forms a formal development plan document for Hinckley Town Centre as part of the Local Development Framework.

The boundary within the Hinckley Town Centre Area Action Plan (AAP) also reflects that of the Local Plan, and as such the sites fall outside of the town centre and settlement boundary of Hinckley on both accounts.

## **Appraisal:-**

The main considerations in the determination of this application are the principle of development; five year housing land supply; impact upon the character and appearance of the countryside; impact upon the character and appearance of the Ashby Canal Conservation Area; overall appearance; impact upon residential amenity; highway considerations, development contributions and affordable housing, drainage and flood risk and other matters.

### Principle of Development

The application site lies outside of the current settlement boundary of Hinckley, as defined on the proposals map of the adopted Local Plan and is therefore within an area designated as countryside.

Both Policy NE5 and RES5 of the adopted Local Plan seek to protect the countryside for its own sake. Policy NE5 states that planning permission will only be granted for development that is important to the local economy, for the change of use of existing buildings or for sport and recreation. The proposed residential development does not meet any of these criteria.

It should be noted that, since the adoption of the Local Plan the area to the west of the site has been developed and planning permission has recently been granted for residential development to the south of the site (Crest Nicholson development) as such it is considered that the site lies adjacent to the current built form of Hinckley.

In summary, accordance with Policies NE5 and RES5, residential development is not supported outside the settlement boundary. The application is therefore contrary to this policy unless there are material planning considerations that indicate that it is acceptable on other grounds and those considerations outweigh the harm caused to policy by the development.

### Five Year Housing Land Supply

Within the previous outline application (ref: 06/00786/OUT) the Inspector when dismissing the appeal concluded that “given the existence of a 5-year supply of deliverable housing sites in the Borough, there are, on balance, insufficient material considerations to outweigh the conflict with policy in this case.” The Planning Inspector also acknowledged that “the appeal site will at some time need to be allocated for housing in a future LDF document and it is important in order to ensure the effective, efficient and sustainable use of land, that the pattern of development is determined by the development plan and LDF process.”

The Hinckley and Bosworth Core Strategy was adopted in December 2009 and the housing figures contained in the Core Strategy were based on the figures set in the East Midlands Regional Plan. As part of the production of the Core Strategy the Borough Council took into account a number of evidence base documents which informed current and future levels of need and demand for housing.

The Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) was one document that was used as part of the Core Strategy evidence base and the Core Strategy reflects the findings of the SHMA process. However, it reflects not just the document itself, which is fixed in time, but the ongoing process of understanding local housing markets, gathering evidence and data, and developing tools and models, which are likely to continue to evolve.

As a result of the need for flexibility in response to housing market conditions and in different housing markets within the local authority area, the SHMA provides robust and up to date evidence of housing need in the Borough. The Borough Council were part of the steering group for the production of this document and the authority provided a range of data sets to inform the assessment. The findings of the SHMA reflect the findings of the Regional Plan.

Another document that informed the Core Strategy was the Strategic Housing Land Availability Assessment (SHLAA). The SHLAA provided background evidence on the potential supply of housing land within the Borough. This document provided evidence to underpin the deliverability of the Core Strategy, in particular to justify that sufficient

deliverable land can be provided on a variety of sustainable sites across the Borough. It is the quantum of deliverable housing land that is critical in underpinning the housing strategy outlined in the Core Strategy. It provides evidence, in general terms, that sufficient deliverable housing land can be provided to meet the Council's preferred approach to future housing growth. This approach allows for all residents of the Borough to have access to a suitable home which they can afford in a range of sustainable locations (when combined with the other spatial objectives of the core strategy). Whilst the SHLAA forms a single evidence strand in pulling together a preferred housing strategy that is considered deliverable for the core strategy it is important to recognise that it provides vital information in a number of areas. It provides a quantum of available and deliverable land in a range of settlements which have been assessed against a number of constraints (i.e. environmental, topographical, access and ownership). Importantly it also considers a timeframe for potential development.

The Government has not removed the requirement for a 5 year housing land supply from PPS3 in their recent amendments, therefore the Council must still utilise elements of the Regional Plan until transitional arrangements have been put in place.

As the Council have recently adopted the Core Strategy, the local planning authority should use the housing figures contained in the Adopted Core strategy. The housing figures contained in the Core Strategy have been independently inspected and were found to be sound through public examination. In light of the above, it is considered that the housing figures contained within the adopted Core Strategy are based on robust evidence and should continue to be used as part of the Borough Council's Adopted Development Plan.

As highlighted above, the requirement for a five year supply of housing land was not removed from PPS3 in its recent revisions published in June 2011. As a result, the five year supply of housing land should still be considered as part of this planning application and the Core Strategy requirements utilised for the reasons outlined above. With regards to the matter of housing supply, it is accepted that Hinckley & Bosworth Borough Council are unable to secure a 5-year land supply based on the monitoring figures, which are based upon the Core Strategy requirements.

PPS 3 sets out that Local Authorities should identify and maintain a rolling 5-year supply of deliverable land for housing. In particular at paragraph 71 the PPS states '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 in PPS3 including the considerations in Paragraph 69'. This sets out the key criteria for considering applications including high quality design, mix, sustainability and efficient use of land.

The Local Authority is currently unable to secure a five year housing land supply of deliverable and developable sites. As of 20 January 2012, the cumulative shortfall of dwellings has now been identified as 134 dwellings which equates to a 4 years and 9 months of supply. The adopted Core Strategy allocates a minimum of 1120 dwellings within Hinckley.

In considering the shortfall in the land supply position, Policy 1 of the Core Strategy allocates a minimum of 1120 dwellings to Hinckley to allow for flexibility in the level of housing provided. The proposal is for 84 dwellings and would count towards the housing requirement for Hinckley as set out in the Core Strategy.

The SHLAA Review 2010 was published in April 2011 and the application site (AS293) was assessed through this process. The site was identified as suitable, available and achievable and, as a result, developable.

The site has been identified (ref: HIN03) as a preferred option for residential development in the Draft Allocations and Generic Development Control Policies Plan Document (February 2009). This is in draft form only and has not yet been subject to independent examination by the Planning Inspectorate (and as such, no or little weight can be given to this, as it is not an adopted document). As such this does not provide justification for permitting development ahead of the plans adoption as explained in Para 17, of ODPM's Planning System General Principles guide. Concern is raised that permitting this site could be considered premature and potentially set a precedent for other sites coming forward, thus undermining the LDF process.

In summary, however whilst it would be preferable for the site to be considered in line with the LDF process, it is considered that the approval of this application would bring forward 84 units and contribute towards the Core Strategy housing requirement for Hinckley; contribute towards addressing the shortfall in the overall five year housing land supply and the provision of affordable housing units in an area of identified need. It should be noted however, that the lack of 5 year housing supply alone does not legitimise the approval of inappropriate and non-preferable sites, and should be considered alongside a number of other material considerations, which are considered later in this report.

#### *Impact upon the Character and Appearance of the Countryside*

As discussed earlier in this report the application site in policy terms lies outside of the defined settlement boundary for Hinckley and is within the countryside.

Within the latest appeal decision (ref: 06/000786/OUT) for large-scale residential development, the Planning Inspector stated that the site was adjacent to the settlement of Hinckley and could not be considered as 'open countryside' and acknowledged that there was a lessening of urban influence moving southwards along Nutts Lane, but that it was also important to maintain the semi-rural character of this part of Nutts Lane.

Whilst the site is located outside the settlement boundary, since the previous submission the area to the west of the site has subsequently been developed for residential purposes and it is therefore considered that the application site lies adjacent to the current form of Hinckley. In addition, following the approval of residential development at the Crest Nicholson development to the south of the site, the application site is now largely bound by built development. Beyond this site to the south, is the adjacent railway line and it's associated embankment with mature landscaping which are considered to provide both visual and physical separation from the countryside beyond.

The density, layout and appearance of the proposed development are discussed later in this report but it is considered that there is no identified harm upon the character and appearance of the countryside.

In summary, whilst there is a presumption against development in the countryside, it is considered that this site in context with the surrounding development does not represent a 'typical' rural countryside location and for that reason and for the reasons discussed later in this report, it is considered that it would be difficult to sustain an objection based on the impact of the development on the character and appearance of this setting. Given the current shortfall in housing supply and the weight placed on maintaining a rolling five year-housing land supply as set out in PPS3, this is considered a significant material consideration in the determination of this application and one which would outweigh the objection in principle of development within this 'countryside' setting, providing that all other planning matters can be adequately addressed.

For the reasons discussed later in this report, it is considered that the development would be carried out in accordance with the relevant development plan policies and central government guidance.

In respect of the issues raised by the Planning Inspector (ref: 06/000786/OUT), it is considered that since the previous outline refusal, the site is now largely bound by build development and the Inspector also acknowledged that the site, even then, could not be considered as 'open countryside'.

### Impact upon the Character and Appearance of the Ashby Canal Conservation Area

The site lies adjacent to Ashby Canal, which is a designated Conservation Area and is afforded protection through Policy BE7 and Policy REC6 of the Hinckley and Bosworth Local Plan. It is a statutory requirement that any new development should at least preserve the character and appearance of the Conservation Area.

Both the Inland Waterways Association and Ashby Canal Association accept the principle of residential development, however both raise concerns in respect of the 3 storey residential units facing the canal frontage.

Whilst Ashby Canal runs through predominantly rural locations, the local section of the canal passes through the suburbs of modern Hinckley, where residential canal side development is more common. Modern, high rise residential development is visible to the north and south of the canal corridor (north and west of the application site, respectively) and as such it is not considered that the 2.5 and 3 storey proportions is considered to affect the local character of the canal's setting.

It is also considered that the range of 2; 2.5 and 3 storey proportions to the canal frontage provides an interesting and varied streetscape and will not significantly impact upon the canal corridor given the distance of a 15 – 30 metre separation zone between the canal and the residential dwellings. In addition, the existing hedgerow providing natural screening is set to be retained.

In summary, given the layout, design and natural landscape screening, it is considered that the development would preserve the character of the Ashby Canal Conservation Area. Accordingly the scheme is considered to be in accordance with Policies BE7 and REC6 of the Local Plan. The issues raised by the Inspector within the (ref: 06/00786/OUT) appeal stating that the proposal would harm the character and appearance of the surrounding area and the setting of the Ashby Canal Conservation Area are therefore considered to have been overcome within this scheme.

### Overall Appearance

#### Density

The application proposes 84 dwellings on a 2.6 hectare site equating to a net density of 32 dwellings per hectare (dph) excluding the public open space. Amendments to PPS3 in June 2010 removed the national minimum indicative of 30 dph, although Policy 16 of the adopted Core Strategy seeks a density of at least 40 dph within and adjoining Hinckley. It also states that in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable.

In this case, the presence of Ashby Canal to the north of the site and the employment area to the east are constraints to development of the site and it is also considered that taking into account the semi rural nature of the site and the likely impact of development on the Ashby

Canal corridor that a high density would not be suitable in this location. The development follows a similar density to that of the residential site to the south (38.7 dph) which reflects that of the neighbouring Waterside Park scheme. Accordingly the density is therefore considered to be acceptable on this edge of town location.

### Layout

The layout proposes one main access road off Nutts Lane, with one main road running west, north, and west again and south, with a hierarchy of routes feeding off, creating a grid ironed approach. The layout of the development is broadly linear in design, reflecting the linear form of the canal to the north and considering the need to incorporate SUDS. The series of secondary roads, defined by the variations in surfacing materials create a series of clusters of development including two cul de sacs in the centre of the site.

On site, incidental play space is located along the canal towpath, creating a focal point and is overlooked by a number of dwellings ensuring natural surveillance.

The proposed dwellings that are sited along the main access road within the site have all been designed to face onto the main road, with dwellings on secondary roads varying in their orientation. All amenity spaces are provided to the rear of the plots.

The layout to the east of the site has ensured that dwellings are facing onto Nutts Lane, to create an aesthetical streetscene when viewing the site from Nutts Lane. On entering the site, units to the north (plots 17-20) also propose parking to the front, whilst those to the south (plots 80-84) have parking provision to the rear. This ensures that parking does not dominate when entering the site. Given the orientation of plots in the centre of the site it appears as if 'car courts' have been created, however it is considered that this has been broken up by the addition of landscaping and vegetation.

Dwellings which occupy prominent positions on corners plots have been carefully considered to ensure that there are no dull or blank frontages

Two, three and four bed dwellings propose appropriately sized gardens in accordance with the standards set down in the Council's SPG on New Residential Development. The proposed two bed flats (House Type F) fail to provide any private amenity space, and developments of this nature are normally expected to provide a degree of outside space. However, given the provision of open space on site and the proximity to equipped open space within the area, in addition to the fact that open space could only be provided at the loss of parking, in this case it is considered that there are greater planning gains to be had by the scheme currently proposed.

British Waterways stated that the canal side development would have been better sited closer to the canal in order to increase the level of engagement with the canal. It is considered that the separation zone of between 15-20 metres between the canal and plots 24 to 49 has been adhered to following the requirements as sets out in the Ashby Canal Conservation Area Appraisal. This distance has also been adhered to in order to minimise impacts upon the ecology and biodiversity of the hedgerow and canal.

Following concerns raised by officers and the concerns outlined by the Leicestershire Constabulary Crime Reduction Officer, during the course of the application an amended layout has been received. This shows alterations to the canal side frontage and Plots 24-33 and 41-49 and has reduced the number of car parking spaces immediately adjacent to the plots and increased the vegetation and soft landscaping throughout this area. It is considered that this revised scheme enhances the overall appearance of the public realm in this area, and the specific details of the hard and soft surfacing, appearance, construction,

planting including species, sizes, densities, implementation and future maintenance are to be secured through the S106 agreement.

### Affordable Housing Layout

Members should be aware that tenure split, design and location of affordable housing units within the scheme has been subject to extensive scrutiny. The scheme is set to provide three main clusters of affordable housing units, bordering the peripheries to the east, west and south of the site. The Council's Affordable Housing Officer is in full agreement with the current siting of the affordable housing units. Accordingly, it is considered that the current siting of the affordable housing units should receive full support in this case.

### Scale

The application site is bound to the north and west by residential dwellings and to the south residential dwellings are currently under construction at the Crest Nicholson development. High residential apartment and flat units are sited to the north and north west of the site at Herons Court and Waterside and Kingfisher Courts, respectively, whilst to the west and south of the site, two storey detached, semi detached and terraced properties are more common.

The scheme proposes a range of flats, detached, semi-detached and terraced dwellings of two, three and four bedrooms which occupy fairly similar footprints within the scheme, but propose differing 2, 2.5 and 3 storey proportions. Given the range of residential types and scales within the immediate vicinity, it is considered that the differing scales proposed add interest and ensures that the proportions do not appear out of scale or character within the surrounding setting.

### Design

In relation to the visual appearance of the built environment, there are a range of house types proposed within the scheme. Each house type is fairly simplistic in design but proposes different scales, materials and design features such as chimney stacks, window detailing, dormer windows, brick arch headers, brick dental string courses and canopies over the front door. It is considered that the design, particularly window and door details largely reflects that of Hinckley's history with the hosiery industry.

A number of brick and tile types are proposed; Hanson Chatsworth Multi, Hanson Breckland Multi Reserve; Hanson Abbey Buff Multi and cream render for the walls with Redland Ministonewold Farmhouse Red, Redland Ministonewold Breckland Brown, Redland Ministonewold Slate Grey and Redland Ministonewold Breckland Black. The acceptability of these external finishes has not been fully considered as the Local Planning Authority would request that samples are first submitted to and approved, which can be secured by the imposition of a planning condition.

### Hard Landscaping

In respect of other visual elements there is a mixture of frontage parking, and single and double garages which are subservient in scale and using similar materials to the proposed dwellings. In addition, whilst soft landscaping will be considered later in the report it is considered this adds aesthetics to the overall appearance of the site.

The application shows a mixture of 1.8 metre high brick wall (with brick edge), 1.8 metre high close boarded fence; 1.8 metre high timber panel larch lap fence; 1.2 metre high timber post and rail fence; 0.4 metre high timber knee rails, 1.3 metre high black flat top steel railing, as

well as 1.8 metre long timber bench and black steel bollards. The appearance of the fencing is appropriate in its appearance and will not be harmful to the overall design concept of the scheme and the character of the immediate area.

### Soft Landscaping

The application has been accompanied by landscape softworks and hardworks plans which details the general tree planting, play and open space planting, hedge planting, bulb planting and on plot planting (as well as hard works surfacing, boundaries and furniture).

The on site play and open space is intended to be to the north of the site bordering the canal, whilst there are other areas of landscaping bordering the south of the site and throughout the site through the creation of the SUDS.

The scheme has been considered by the Head of Corporate and Scrutiny Services (Green Spaces) who stated that the location of the open space along the canal corridor maintains the open aspect of the canal corridor and allows access to and from the tow path enabling good connectivity from the development to other green infrastructure via the canal. In terms of the proposed planting, it was considered that the native planting to the north of the site would enhance the value of the canal as a wildlife corridor.

In respect of the future adoption of the open space, the Head of Corporate and Scrutiny Services (Green Spaces) is prepared to consider the adoption of the open space subject to it being constructed and maintained to an acceptable standard.

The level of planting is considered appropriate to contribute to the overall 'semi rural' character of the area and will contribute to the visual amenity of the development.

In summary, it is considered that following the amendments to the layout of the scheme on the canal side frontage that the schemes layout is acceptable. The range of flats, terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2, 2.5 and 3 storey proportions adds interest and provide strong attractive street scenes and improves the visual amenity of the site, softened by the variation in architectural detailing, materials, surfacing, boundary treatments, trees, landscaping and a well defined public focal point. It is however, as discussed above, necessary to secure the specific details of the public realm through the S106 in order to control the external appearance of this important area.

Accordingly the scheme is considered to be in accordance with Policies NE5 and BE1 of the Local Plan.

### Impact upon Residential Amenity

The site is bordered by residential dwellings to the south and west of the site and dwellings beyond the Ashby Canal to the north. Objections have been raised in respect of the loss of open aspects, privacy and overlooking from 2.5 and 3 storey properties.

The neighbouring residential dwellings most immediately impacted upon as a result of the proposal would be dwellings located to the east side of Paddock Way, located to the west of the application site. There would be a distance of 12.5 metres between the side elevation of Plot 58 and the rear elevations of No's 128 and 130 Paddock Way. There are no windows proposed in the side elevation of Plot 58 and whilst the Council's SPG on New Residential Development usually seeks a distance of 14 metres between a blank wall and window of a habitable room, it is considered that the distance of 12.5 metres would not result in any material impacts. It is considered that given the mature hedgerow to the boundary of the site, that this would screen and mitigate against the visual impact of the dwelling and given



that no windows are proposed, no overlooking should arise. As such, whilst 12.5 metres is not in strict conformity, it is not considered to be significantly detrimental in this case.

Residential dwellings are currently under construction to the south of the site. On completion, it is considered that there would be a distance of a minimum of 26 metres between the neighbouring and proposed dwellings. Given the distance and presence of the hedgerow serving the boundary which is to provide screening, it is not considered that there would be any significant material impacts upon residential amenity.

Whilst there are residential dwellings to the north, beyond the Ashby Canal, it is considered that there are sufficient distances between the existing and proposed residential units for there not to be any significant impacts upon residential amenity. There are no residential dwellings located to the east of the site.

The previous outline application (ref: 06/00786/OUT) was refused on the grounds of the likely un-satisfactory living environment for the future occupiers of the proposed development by reason of noise, arising from the activities of existing businesses in close proximity to the site. However, it should be noted that at the public inquiry the Planning Inspector concluded that agreed mitigation measures could be ensured by planning conditions to overcome this issue.

Within this application the accompanying Noise Assessment concluded that the proposed dwellings (Plots 1-10 and 84) adjacent to Nutts Lane facing the industrial estate will require specific noise control measures. Properties with windows serving habitable rooms will need to provide minimum sound reductions, over and above that of the normal thermal double glazing specification and that passive acoustic ventilators can be installed within the walls of habitable rooms. The Assessment also recommended that Plot 84 should be enclosed by 1.8 metre high close boarded timber fencing. The Noise Assessment has been considered by the Head of Community Services (Pollution) who has requested specific conditions, in line with the Noise Assessment recommendations, securing sound attenuation measures for future occupiers of Plots 1-10 and 84 fronting Nutts Lane. The Head of Community Services (Pollution) has also requested a condition to secure a construction environmental management plan. As such, it is considered that appropriate mitigation measures should be secured through the imposition of planning conditions.

In response to neighbouring letters of objection, to the west of the site only 2 storey properties are proposed, ensuring that the proposed dwellings do not dominate or overlook the neighbouring dwellings. The majority of dwellings proposed to the south of the site are 2 storey, with some 2.5 storey properties, however the distance to the neighbouring development should ensure that no overlooking should arise. The majority of 3 storey dwellings are proposed to the north of the site along the canal frontage, where there is a distance of some 33 metres between the proposed dwelling and dwellings at Herons Court, which similarly are of 2 and 3 storey proportions. As such it is not considered that the proposed dwellings would result in any significant overlooking upon surrounding neighbouring dwellings.

An additional response has stated that the accompanying Noise Assessment does not undertake an assessment of the potential noise and disturbance from the proposed pumping station on neighbouring residential occupiers. Re-consultation has been undertaken with the Head of Community Services (Pollution) who requires an additional condition to secure these details.

Issues of noise and air pollution are not considered to be significant considerations in the determination of this application. Whilst the creation of new homes will undoubtedly give rise

to an increase in cars in the area there is no evidence to suggest that this would be to the detriment of existing residents.

A right to view and de-valuation of properties are not material planning considerations.

As previously discussed the reason for refusal on the outline application (ref: 06/00786/OUT) relating to un-satisfactory living environment for the future occupiers of the proposed development by reason of noise, arising from the activities of existing businesses in close proximity to the site was reported by the Planning Inspector as being able to be dealt with by way of appropriate conditions.

In comparison, this scheme is considered to have minimal impacts upon the amenity of surrounding neighbouring residents and future occupiers of the site, subject to the imposition of planning conditions. Accordingly the scheme is considered to be in accordance with Policy BE1 of the Local Plan.

#### Highway Considerations; Access, Parking Provision, Highway Safety, Impact on the Local Highway Network, and Off-Site works.

The majority of the objections raised by neighbouring residents and adjoining land owners concern the impact of vehicular movements on the canal bridge, the immediate and the local highway network, the inadequacies of footpaths along the towpath and over the canal bridge, and general highway safety.

#### Access

A new vehicular access is proposed to the east of the site from Nutts Lane. Footpaths and cycle routes are provided to the north of the site along the canal frontage which involves the creation of two access points in the existing hedgerow to connect to the existing towpath. A footpath and cycle route is provided to the south of the site, which is also intended for vehicles to gain access for future maintenance of the SUDS scheme.

In response to letters of representation received stating that the proposed development has not been designed to integrate with the surrounding development, during the course of the application amended plans have been received to show extensions to footpaths fronting dwellings to the proposed footpath to the south of the site, in order to improve the permeability and legibility within the scheme and a footbridge to the south east corner of the site to link to an existing footpath on Nutts Lane, to improve permeability and ensure future occupiers minimise movements on the road network. In addition, the Director of Environment and Transport (Highways) states that direct vehicular, pedestrian, or cycle links cannot be delivered from the site to the Waterside Park of Crest Nicholson development due to the presence of third party land.

#### Parking Provision

All new dwellings are to be provided with at least one allocated car parking space. The majority of parking spaces are allocated within parking courts, although there are a number of garage units (with accommodation above) and single and detached garages interspersed throughout the site. Parking has been divided up within the scheme so that some is within the highway, to the front or side of the dwelling, although it is predominantly provided to the front of dwellings. The off-site parking levels are achieved without the inclusion of the garages and therefore the level of parking is welcomed.

### Highway Safety; Off Site Works and Safe Walking Route to School

The majority of letters received during the course of the application, including between the December and this committee have referred to the issue of pedestrian safety, and walking to, from and across the Nutts Lane canal bridge and along the canal tow path.

#### December Committee

As part of the Crest Nicholson development to the south of the site (former Greyhound Stadium), improvements to pedestrian facilities on Nutts Lane i.e. a new footway and new crossing facilities between footways on the opposite sides of Nutts Lane, and other footway improvements, were imposed via a condition and are currently under technical negotiation. In response to a letter of representation, it is acknowledged that canal bridge improvements were not required as part of the Crest Nicholson development, but other highway works were requested.

The Director of Environment and Transport (Highways) had similarly requested improvements via a condition, including the widening of the footway over the canal bridge for this application. The applicant provided a plan showing the widening of the footway over the canal bridge, which shows an increased width of 0.9 metres (at its narrowest point) which consequently reduces the carriageway width to 3 metres.

The Director of Environment and Transport (Highways) has stated that whilst the route from the site along to the canal towpath between the north-west corner of the site and Coventry Road, has previously been assessed by specialist colleagues under the Leicestershire County Council Home to School Transport Policy and was found to be available as a safe walking to school route, given observations during adverse weather conditions this advice has subsequently been amended and it is considered that in its current condition it cannot be considered as an available route.

The Director of Environment and Transport (Highways) has subsequently confirmed that on the basis of the impact on the likely numbers of additional pedestrians using the canal tow path route, it was not possible to recommend any improvements to the towpath, as it would not be able to be demonstrated that they are necessary and justified. British Waterways have confirmed that this route and improvements would fall under the remit of Leicestershire County Highway Authority and therefore such a request would need to be made by them.

For the avoidance of doubt in respect of street lighting being implemented along the canal towpath, the Chief Executive (Ecology) stated that no lighting should be shone directly at the canal or the hedgerow alongside the towpath and that the buffer zone of between 15 to 30 metres between the canal and residential units has purposely been employed so that the level of light upon the canal and hedgerows is minimal.

Members may recall that this application was then deferred at 13 December 2011 committee, on the request that further discussion be had with the applicant and the Highways Authority regarding highway safety issues, particularly around the Nutts Lane canal bridge.

#### January Committee

Since that time the applicant has produced a series of amended drawings and has introduced a controlled pedestrian 'all red' phase at the canal bridge, with two push buttons either end of the bridge. This is in addition to the previous widening of the footway to a minimum of 0.9 metres, tactile paving, new 1.8 metre footway, new dropped kerb and tactile paving for an uncontrolled crossing, white lines to be tied into the existing lines and the existing 'no footway' signs are to be retained. This scheme has been considered by the

Director of Environment and Transport (Highways) who accepts the works proposed and therefore a condition is imposed which requires the off-site works to be undertaken in accordance with the details with this plan.

In response to the number of representations received proposing solutions, the minimum carriageway width should be 2.75 metres. As a result of the proposed widening of the footway, there would be a width of 3 metres to allow vehicular traffic and approximately 0.9 metres for pedestrians.

In response to concerns raised about the crossing times, the scheme is set to be installed with detector devices which will be able to ascertain whether a pedestrian is still on the bridge and ensure adequate time for crossing.

In respect of the introduction of bollards, railings or other similar treatment and any additional signage this has been considered within the course of the application but is considered to be a formal requirement. The Director of Environment and Transport (Highways) has stated that such a treatment may be agreed as part of the off site highway works during the technical approval process under a Section 278 Agreement between the developer and the highway authority. However, it should be noted that any such alterations and amendments would require the associated condition to be amended and therefore the condition varied accordingly.

In response to a letter of representation, raising concerns over the clarity of the latest requests, for the avoidance of doubt the Transport Assessment, accompanying the application proposed that a controlled pedestrian phase could be introduced to the signals at the canal bridge to improve the safety of pedestrians in connection with the development. The Director of Environment and Transport (Highways) originally had some concerns that the introduction of a controlled all red phase could, by its nature, have an impact on queuing length/times, particularly in the p.m. peak hour. However, following further detailed investigation, works to install the control cables in connection with the pedestrian phase are not considered to be possible and, taking into consideration the volume of traffic on Nutts Lane and the likely frequency of use of the all red phase, the proposed pedestrian phase will be acceptable to the Highway Authority and should be considered as providing an improvement to the safety of pedestrians using the route over the canal bridge.

The Director of Environment and Transport (Highways) has also re-confirmed that whilst they would normally have concerns in connection with an increase in pedestrians using a section of highway that does not benefit from a footway that complies with normal Leicestershire County Council standards in terms of its width, having regard to the speeds of vehicles on this section of highway (average speeds of 18.8 mph northbound and 27.7 mph southbound at the canal bridge) the existing level of pedestrians crossing the bridge and the absence of any personal injury accidents in the last 5 years plus the current year to date, and taking into consideration the above improvements, including the proposed controlled pedestrian phase, it is not considered that it would be possible to sustain a reason for refusal on the grounds of an increase in dangers to pedestrians.

In respect of a safe walking route to school along the Nutts Lane canal bridge, the Director of Environment and Transport (Highways) is of the view that following the revised plans showing proposed improvements to the width of the pedestrian footway at the canal bridge and the provision of an all red pedestrian phase at the canal bridge that this would be a possible route available as a Walking Route to School under this Leicestershire County Council policy, but that an assessment cannot be undertaken until such a time that the proposed works have been fully implemented.

### Impact on the Local Highway Network

The Director of Environment and Transport (Highways) has explored the possibility of a LINSIG a software tool which allows traffic engineers to model traffic signals and their effect on traffic capacities and queuing and MOVA which is a hardware tool which analyses the sequencing of traffic signals to improve capacities, and refers to the positives and negatives of these systems in place at both the canal bridge and the Nutts Lane/Coventry Road junction.

As a result of the LINSIG works, (all scenarios modelled), the shuttle working at the canal bridge was considered to be working within the acceptable thresholds of capacity. In respect of MOVA it was considered that should a longer green phase be introduced that this could increase a 'platooning' effect (a number of vehicles travelling together) and increase the level of queuing.

The Director of Environment and Transport (Highways) also acknowledges that despite the submitted Transport Assessment stating that the junction of Nutts Lane and Coventry Road is operating outside of acceptable thresholds of capacity at p.m peak, it is not considered that the impact of the additional traffic as a result of the proposal (9 additional vehicles at p.m peak) could justify that signalisation be required.

In terms of the level of congestion, and the impacts of this, the Director of Environment and Transport (Highways) consider that on the basis of the existing level of traffic, the proposed increase cannot be considered to be material and a reason for refusal could not be sustained. Concerns have been raised in respect of the delayed times identified within the Transport Assessment, however regardless of delay on the basis of the existing level of traffic, the proposed increase cannot be considered to be material.

### Integration with Surrounding Developments

As part of the development, there will be the widening and re-surfacing of the canal towpath to the north of the site along with a footpath to the south of the site linking to a footbridge to the south east corner of the site which links to an existing footpath on Nutts Lane.

The applicant has previously confirmed that connection to Waterside Park and the former Greyhound Stadium is not possible due to strips of land being retained by Crest Nicholson in order to provide a further commercial position over the development. The applicant also refers to the fact that the planning permissions for the adjacent developments did not include a requirement to provide such connections to the boundary and as such they cannot be delivered under this planning permission.

In addition, the Director of Environment and Transport (Highways) states that direct vehicular, pedestrian, or cycle links cannot be delivered from the site to the Waterside Park Crest Nicholson development due to the presence of third party land.

In respect of the application (ref: 11/01002/FUL) for a proposed footpath extension to Paddock Way, this is still an invalid application and in any case is not considered to have any bearing on this application. In requesting to impose a Grampian style condition, the Local Planning Authority does not consider it necessary to impose this said condition given the lack of justification.

### Routing of Construction Traffic

The Director of Environment and Transport (Highways) has referred to the number of objections in respect of the use of the Nutts Lane canal bridge by HGV traffic and has

suggested that there may be merit in including a routing agreement within the Section 106 Legal Agreement to ensure that all construction vehicles would travel to and from the site using Nutts Lane to the south of the development site, between the site and A5 Watling Street.

The Director of Environment and Transport (Highways) has confirmed that this is only a suggestion and the Local Planning Authority have considered that given the proximity of the site to the industrial estate it would be difficult to differentiate between the general traffic and the specific construction traffic, and therefore it would not be enforceable. This would not be in accordance with paragraph 71 of circular 11/95 and the same argument in respect of enforceability would apply for a Section 106 Agreement.

The Director of Environment and Transport (Highways) has also confirmed that if the routing agreement could not be included in the S106 Agreement or imposed as a condition by Hinckley and Bosworth Borough Council, then the Highway Authority would not amend its recommendation to one of refusal.

### Other Matters

Letters of representation have been received questioning how the figure of 9 vehicular trips has been generated. The Director of Environment and Transport (Highways) has stated that the Transport Assessment is based on TRICS database and 2001 Census journey to work data and the proposal is likely to generate 458 in all trips, throughout a 24 hours day. In the 5 -6 pm peak hour it is estimated that 52 trips will be generated, of these approximately 18 are departures from the site, of these 51.15% are expected to go through the junction of Nutts Lane and Coventry Road, equating to a total of approximately 9 trips to the junction.

For the avoidance of doubt the Director of Environment and Transport (Highways) has re-confirmed that there is no provision in its works programme for such a bridge and therefore would be unable to ask the applicant to contribute towards a scheme which has no hope of proceeding in the current circumstances, or in the immediate future.

In respect of the concerns raised by the state of the canal bridge, for the avoidance of doubt the canal bridge is owned by British Waterways and as such falls outside the remit of the Borough Council. The professional view of Leicestershire County Council is that the bridge is structurally sound and British Waterways have not requested a weight restriction order or signs. The Director of Environment and Transport (Highways) has re-confirmed that there is no weight limit on the canal bridge and therefore it is suitable to carry vehicles up to 44 tonnes.

Concerns have continually been expressed regarding restricting the width of the bridge to prevent Heavy Goods Vehicles (HGV's) from using it. The Director of Environment and Transport (Highways) does not support the restriction as it would restrict access to the industrial area, which is currently unrestricted from the northern approach using Nutts Lane over the canal bridge, but height-restricted from the southern approach along Nutts Lane by the rail bridge and would also be needed to ensure that alternative routes (although not an official diversion route) are available for traffic including HGV's should the A5 be closed. Other similar concerns have been raised regarding the HGV's and articulated lorries, however this is not a material planning consideration.

The camber of the carriageway at the location of the A5 rail bridge is not for consideration within this application.

In summary, the Highways Agency has no objection to the scheme with regards to the impact upon the A5 Trunk Road.

Following a number of concerns raised, the applicant has submitted plans to show the introduction of a controlled all red phase, in addition to providing an increase in the width of the footway over the canal bridge, amongst other improvements to both Nutts Lane and the Canal bridge. As such it is considered that the applicant has proposed measures that go over and above that required by the Director of Environment and Transport (Highways) to alleviate the concerns raised by members and residents.

The Director of Environment and Transport (Highways) states that on the basis of the speeds of vehicles and the absence of any personal injury accidents in the last 5 years, combined with the proposed improvements, including the controlled pedestrian phase that it is not possible to sustain a reason for refusal on the grounds of dangers to pedestrians.

Accordingly, subject to the imposition of planning conditions the scheme is considered to be in accordance with Policies T5, T9 and T11 of the adopted Local Plan.

### Developer Contributions and Affordable Housing Provision

The application proposes 84 residential units which attracts infrastructure contributions.

The general approach to developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL). CIL confirms that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

#### Affordable Housing

As the site falls within the 'urban area' (although outside the settlement boundary) the proposal should provide 20% affordable housing with a tenure split of 75% social rented and 25% intermediate housing.

The applicant has committed to providing 20% affordable housing within the draft Heads of Terms with a tenure split of 75 % for social rented and 25 % for shared ownership, which is in accordance with Core Strategy Policy 15. This equates to the provision of 17 affordable units; 12 for social rented and 5 for intermediate tenure.

Of the 12 social rented, 4 of these are 3 bedroomed units and 8 are 2 bedroomed units and of the 5 shared ownership houses, 3 are 3 bedroomed units and 2 are 2 bedroomed units.

The latest Housing Register in Hinckley (as of 28 November 2011) stated that 284 applicants were looking for 2 bedroomed properties, 94 looking for 3 bedroomed properties and 13 for 4 or more bedroomed properties. It is considered that there is a high demand within Hinckley and the provision in this development is welcomed.

It is considered that there is an identified need for a range of affordable units in Hinckley and as such it is considered necessary to provide them within this development. This scheme, falling on the outskirts of Hinckley, and providing a number of units which has triggered the request for affordable housing in line with Core Strategy Policy 15 is considered to be directly related. The amount and type requested is also considered fairly and reasonably related in scale and kind to the development proposed. It is therefore considered that the request for affordable housing requirements meets the requirements of the Community Infrastructure Levy (CIL) 2010.

The provision of the affordable housing is to be being secured through the draft S106 agreement submitted with the application. Accordingly the scheme would meet the

requirements of Policies 15 of the adopted Core Strategy, supported by the Council's Supplementary Planning Document on Affordable Housing.

### Play and Open Space Contributions

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

**Informal (Un-equipped) Children's Play Space:-** The application proposes to create an area of informal public open space within the site to the north bordering the canal. The Head of Corporate and Scrutiny Services (Green Spaces) has agreed in principle to the future adoption of this space subject to it being constructed and maintained to an acceptable standard. This has attracted a contribution of £35,445.87, based on the surface area for the maintenance as an informal children's play space.

**Informal Equipped Children's Play Space:-** A shortfall in the required provision of on site equipped children's play area means that an off site contribution is required. It has been identified that the application site is located within 400 metres of equipped place space at Waterside Park to the west of the site and as such a financial contribution will be secured against this site. A contribution of £60,933.60 is required for the provision and £29,694.00 for the maintenance. In addition, the Head of Corporate and Scrutiny Services (Green Spaces) has stated that the results from the draft PPG17 study undertaken in May 2010 scored this children's play area a quality percentage of 87% and access percentage 60%, however the Head of Corporate and Scrutiny Services (Green Spaces) confirms that a year on, the children's play area is already worn and would benefit from financial investment.

In response to the shortfall of on site equipped children's play area the Head of Corporate and Scrutiny Services (Green Spaces) has also submitted additional information confirming that it would be far more advantageous to secure two well equipped children's play areas with a wider range of diverse equipment and facilities, rather than the provision of three equipped play areas with basic equipment all in very close proximity to each other.

**Formal Recreation Space:-** Similarly off site contributions will also be required for formal open space. The application site falls within 1 kilometre of Langdale Road Recreation Area and as such financial contributions of £27,115.20 for the provision and £22,176.00 for the maintenance is sought. Within the Green Space Strategy 2005-2010, Hinckley was found to have a deficiency of outdoor sports (-12.50) for its population when compared with the National Playing Fields Standard. In addition, the Head of Corporate and Scrutiny Services (Green Spaces) has requested financial contributions for the improvement to the pavilion as changing rooms, toilets and kitchen facilities, following an increase in demand.

Cumulatively the development attracts contributions for play and open space of £174, 364.67

Given the size of the units proposed it is considered that these would appeal to families and given the proximity of the application site to Waterside Park and Langdale Road Recreation



Area, it is considered that the future occupiers would use the facilities and increase the wear and tear of the equipment and facilities on these sites. It has also been found that Hinckley has a deficiency of outdoor sports facilities and that there are specific works required to improve the quality of the Recreation Area relating to this development.

In response to the letter of objection stating the scheme does not provide sufficient provision for green space and play provision in accordance with Policy 19 within the core strategy, Policy 19 states that standards needs to be assessed according to their geographical context and that whilst on site provision for equipped play space and formal recreation is not provided within the site, local plan Policies REC2 and REC3 allow off- site financial contributions to be secured. It is considered that the scheme satisfies the requirements of Policies REC2 and REC3 of the adopted Local Plan.

In response to a letter of objection, Policy REC3 of the Local Plan states that children's play space provision should satisfy a number of criteria including one that states that play areas should be located so that they are safely accessible by children, with footpath links which do not require the crossing of busy roads or other major hazards.

Policy REC3 relates to the provision of new play areas, however within this application the Council are obtaining a financial contribution towards two existing play areas, in accordance with the requirements set out in the Council's SPD on Play and Open Space.

The Council would agree that a more suitably located site would be preferable, however in determining planning applications, the Local Planning Authority are only able to use the adopted policies which form part of the development plan in making both requests and decisions.

The SPD on Play and Open Space also sets out the distance from application sites to play areas; equipped areas of play need to be located within 400 metres of an application site and a formal recreation ground would need to be located within 1 kilometre of the application site. As a result of the application, off-site financial contributions to be secured are for Waterside Park and Langdale Road Recreation Area, respectively.

As there is no alternative site for play and open space within either 400 metres or 1 kilometre of the site, which would also be within the ownership of the Borough Council, it is not possible to gain a financial contribution for any alternative site.

It should be noted that the scheme has been considered by Leicestershire County Council as Highway Authority who are requesting off-site improvements to Nutts Lane, and have not requested crossings at Coventry Road.

It is considered that the play and open space contributions is necessary to make the development acceptable in planning terms, is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this case. Accordingly the scheme would meet the requirements of Policies 1 and 19 of the adopted Core Strategy, Policies REC2 and REC3 of the adopted Local Plan, supported by the Council's Play and Open Space SPD.

#### Other Developer Contributions

The consultation responses as set out in the above sections of this report specify the requests from:-

- a) Director of Children and young Peoples Services (Education) requests £229,881.19 for the Primary School sector and £146,841.28 for the Upper School sector

- b) Director of Environment and Transport (Civic Amenity) requests £3,883.00
- c) Director of Adults and Communities (Libraries) requests £5140.00
- d) The Primary Care Trust requests £35,348.54
- e) British Waterways requests £45,000.00
- f) Director of Environment and Transport (Highways) states that a some of £4215.12 is required for travel packs, with the provision of 6-month bus passes (2 application forms to be included in each Travel Packs)– estimated maximum 25% update equating to £13,910.00 and £9348.00 for two bus shelters at the two nearest bus stops.
- g) Landscaping has requested £30,526.84 for maintenance of the adopted landscaping areas.

On consideration of all of these requests received in respect of this application it is considered that the following meet the tests as set out in the CIL 2010:-

- a) Affordable Housing – (17 units)
- b) Play and Open Space – (£174, 363.67)
- c) Education – (£376,722.47)
- d) Public Transport (£27,473.12 – minimum as based on 25% up take on bus passes)
- e) Canal towpath improvements (£45,000.00)
- f) Landscaping maintenance (£30,526.84)

A Section 106 agreement is under negotiation to secure the above mentioned financial contributions and provision of affordable housing units.

#### Drainage and Flood Risk

The site is located within designated Flood Zone 1, with the Ashby Canal located within 20 metres of the site. The scheme proposes swales – sustainable storm water drainage systems a form of Sustainable Urban Drainage System (SUDS), a balancing pond and a pumping station. Foul sewage is to be disposed of via connection to an existing mains sewer system with surface water by the proposed swales and balancing ponds. The accompanying Flood Risk Assessment has been considered by the statutory consultees, all of whom have no objections, subject to the imposition of planning conditions.

As such it is considered necessary to attach a condition to ensure that the development is carried out in accordance with the accompanying Flood Risk Assessment; a detailed surface water drainage scheme is submitted based on SUDS principles including an assessment of the hydrological and hydrogeological context of the development and a scheme to install trapped gullies will also be required to first be submitted to and approved by the Local Planning Authority.

In respect of future adoption, the Head of Community Services (Land Drainage) has agreed in principle to the adoption of the balancing ponds and swales, subject to the adoption of the surface water pumping station. Severn Trent Water have confirmed that that they would, in principle, be prepared to adopt the pumping station provided it meets both their and the Water Industries standards and would be able to confirm this upon receipt of plans and specifications. A condition is imposed for the details of the pumping station to be submitted.

In response to the letters of objection concerning the un-satisfactory drainage strategy, the existing scheme has been considered by the Environment Agency, Severn Trent Water and the Head of Community Services (Land Drainage) all of whom have no objection to the scheme subject to the imposition of appropriate conditions. In response to the neighbouring letters of concerns regarding the inadequacies of the Flood Risk Assessment and Drainage Strategy the Head of Community Services (Land Drainage) has re-confirmed that the construction and operational details of the swales and attenuation basin are satisfactory, and

is satisfied that the failure of the pumped outlet control will not lead to the flooding of the development and that there is in principle adoption for the landscaping and SUDS features and pumping station.

In response to concerns raised regarding the fencing off of the balance pond, the Head of Community Services (Land Drainage) states that balancing ponds and swales should be an integral part of the landscape and if possible made accessible by paths or green corridors.

In response to the towpath and this being brought into use, British Waterways have sought £45,000.00 for widening and surfacing improvements and the delivery of this is being negotiated within the S106 agreement.

In response to Councillor Bill's land search, the Head of Community Services (Land Drainage) confirms that the dwelling in question, whilst facing the northern boundary of the site, is on the opposite side of the canal; and the only site in the locality where infilling and water have existed is the Crest Nicholson development.

Following further letters of representations raising drainage and flooding concerns, re-consultation has been undertaken with the Head of Community Services (Land Drainage) and for the avoidance of doubt and there has been no changes to their comments which supports the scheme, subject to the schemes compliance with the suggested conditions. Head of Community Services (Land Drainage) has also confirmed that the applicant is unable to restore a length of ditch until a blocked culvert is cleared and has instructed the applicant of the Crest Nicholson, former ground stadium to attend to the restoration of the flow path by removing the obstruction from the length of their culvert and ditch as soon as possible.

In summary, the Environment Agency, Severn Trent Water and the Head of Community Services (Land Drainage) all have no objection to the scheme, subject to the imposition of planning conditions. Accordingly it is considered that the proposed works will be in accordance with Policy NE14 of the Local Plan and guidance contained within PPS25.

### Other Matters

#### Ecology and Biodiversity

The site has previously been designated at Parish level as a site of ecological interest (SINC), however the Directorate of Chief Executive, LCC (Ecology) has confirmed that the site has been re-seeded and has subsequently lost its ecological interest.

It should be noted, however that the site abuts the Ashby Canal which is a wildlife corridor and careful consideration needs to be given to the siting of development and the likely impact on the character and value of the Ashby Canal.

The application has been accompanied by an Arboricultural and Ecology Report.

The Arboricultural Survey has been considered by the Borough Council's Arboricultural Consultant who has stated that there are few trees of value and those that are, are located off-site and appear to be clear of proposed building construction. British Waterways have requested that a condition be imposed for the retention of the existing hedgerow to the north of the site, including protective fencing during construction. As such it is considered necessary to attach a condition to secure this.

The Ecology Report makes a number of recommendations which have been supported by the Directorate of Chief Executive (Ecology). These include that all hedgerows must be

enhanced where possible and a management plan put in place; all new planting to be undertaken using native species and that no lights should be shone directly at the canal or the hedgerow alongside the towpath or the balancing pond. In addition, British Waterways have no objection to the scheme, subject to the imposition of planning conditions, including the retention of the existing hedgerow and a lighting scheme. As such it is considered necessary to impose these conditions.

The Directorate of Chief Executive, LCC (Ecology) also recommends that a re-assessment of the dried out pond should be undertaken; that the balancing pond should be re-sited to the north of the site; and that no surface run off should be allowed to enter the canal from the application site. In response to these issues, it is considered that the location of the balancing pond has been carefully considered to ensure that surface water run off is directed from the north of the site to the south west of the site, through the use of the swales to ensure that surface run off does not enter the canal from the application site. In addition the re-assessment of the dried out pond is not considered necessary given that the Directorate of Chief Executive, LCC (Ecology) acknowledges that the replacement of the existing dry pond with the balancing pond and the swale features is considered to further enhance the sites biodiversity value.

In response to British Waterways request to re-site the residential development closer to the canal in order to provide a better engagement between the development and the canal, it is considered that the buffer zone of between 15 to 30 metres between the canal and residential units ensures that the level of light upon the canal and hedgerows is minimal.

In summary, it can be concluded that the proposal will not have any adverse impacts upon any sites of ecological important or protected species subject to the imposition of conditions to secure the retention of the hedgerows, further hedgerow enhancement and a sensitive lighting strategy being employed across the site. Accordingly it is considered acceptable in relation to guidance contained in PPS9.

### Archaeology

The application has been accompanied by an Archaeological Desk Based Assessment which revealed that the site did not hold any designated heritage assets of archaeological interest. This has been considered by the Directorate of Chief Executive (Archaeology) who concluded that given the lack of archaeological finds during the previous archaeological evaluation, it is unlikely that archaeological remains will be affected by the proposals and that no further archaeological investigation will be required in this case. As such no further consideration on this matter is required.

### Sustainability

The Environment Agency has 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. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors waterbutts and rainwater harvesting system the Environment Agency considered that simple treatment systems exist that allow rainwater to be used to supply WC's within the home. In line 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. The details of the schemes compliance with this standard will be subject to the imposition of a planning condition. As such it is considered that the recommendation by the Environment Agency will be covered by the development being constructed to this Code Level 3 standard.

### Storage of Refuse/Recycling Facilities

The scheme has been considered by Head of Business Development and Street Scene Services (Waste Minimisation) who states that the collection point areas will not be suitable for servicing and that the designated areas on this drawing appear far too small and four of the points will be inaccessible to the Council's vehicles. As such, Head of Business Development and Street Scene Services (Waste Minimisation) has requested that a condition is proposed ensuring that details for waste and recycling storage across the site will first be agreed in writing by the Local Planning Authority. It is considered, however that the submitted plan shows the bin collection points at the highway and not from courtyards, shared accesses etc. and as such it is not considered necessary to impose a condition for these details.

### Phasing of the Development

During the course of the application the applicant has provided a phasing plan that details that the development will be constructed in eight phases.

Phase one proposes the construction of plots 80-83 in the south east corner of the site, with plot 83 to become the sales house. Phase two proposes the construction of plots 1-10 and 17-20 to the east of the site, including the provision of four affordable units. Phase three completes the construction of the dwellings to the east of the block by completing plots 11-15. Phase four relates to plots 21-23; 34-36; 69-79 in the centre of the site, whilst Phase five- the largest phase - incorporates plots 24 – 38 and 41-39 which front the canal and plots 37-40; 50-52; 61-68 to the mid/west of the site. Phase six is the construction of plot 84, which up until this time is intended to be used for the sales car park. Phase seven proposes the construction of plots 58-69 the last of the affordable units with phase eight completing proceedings with the construction of plots 53-57.

During the construction, sales parking is proposed to the frontage of Nutts Lane on plot 84 (up until phase 6) whilst the site car park, site office and materials store will be provided to the west of the site.

In the current economic climate it is necessary for Local Planning Authorities to consider and where possible, adopt a flexible approach to the delivery of development. It is however, considered necessary to consider the level of affordable units providing throughout the phases. The total cumulative number of affordable units by the end of each phase of the development are; Phase one: 0 units; Phase two: 4 units; Phase three: 4 units; Phase four: 6 units; Phase five: 14 units; Phase six: 14 units; Phase seven: 14 units; Phase eight: 17 units.

The proposed phasing of this development seeks to deliver the development in eight phases, providing a balance of privately owner/occupied and those owned by the Registered Social Landlord and is considered to be acceptable. It is not considered to result in any detriment to the visual amenity or the safe and functional use of the site. The phasing of the development is being secured within the draft S106 agreement.

### Other Material Considerations: Appeal at the former Greyhound Stadium, Nutts Lane

The following summary of the appeal has been incorporated at the request of Cllr Gould.

Appeal by Crest Nicholson Operations Ltd against the refusal of full planning permission (09/00660/FUL) for a proposed residential development of 84 dwellings, including provision of public open space, new access arrangement and associated works at the former Greyhound Stadium, Nutt's Lane, Hinckley.

Failure to ensure a 5 year housing land supply and the shortfall in affordable housing provision are material considerations that the Inspector gave significant weight to as outweighing objections to protect the countryside. The Inspector highlighted that there were three reasons for refusal, all relating to aspects of highway safety, and on this basis he considered the main issues to be the effect of the proposed development on highway safety.

Firstly, the Inspector considered the impact of development on Coventry Road. It was noted a revised Travel Plan was submitted that satisfied the request made by the Highways Agency. Subsequent survey work was also undertaken by the Highways Authority indicating that a problem would not arise regarding an unacceptable increase in traffic on Coventry Road. After considering the comments made by these statutory consultees at the appeal stage, the Inspector considered that the proposed development would not have an unacceptable impact on Coventry Road.

The Inspector then considered the highway issues related to Nutts Lane. With regards to a new crossing of the canal, the Inspector agreed with the appellant that this was neither deliverable nor affordable as the increase in use of Nutts Lane arising from this development would be limited compared to existing use.

The Inspector also pointed out the concern shown by the Highways Authority that the scheme failed to demonstrate adequate improvement works for the benefits of pedestrians and cyclists. The Inspector notes that a plan had been prepared to provide a new footway along the western side of Nutts Lane and it was accepted a 'Grampian' style condition could be secured to enable safe crossing of Nutts Lane.

In the Inspectors view, the existing problems in Nutts Lane, including congestion, would not be compounded by the addition of the footpath-cycleway connection and that the addition of the short new footway would enable safe crossing of Nutts Lane to be achieved.

The third reason for refusal was then addressed that related to the layout and design of the proposal. The Inspector noted that whilst the Highway Authority indicated details of non-compliance with their standards, the basis behind the proposed layout would achieve the objective of restricting traffic to a design speed of 20 mph so that people have priority over traffic.

The Inspector then considered other matters relating to both the internal road layout and the new access points as well as problems with the wider road network.

Overall the Inspector concluded that there is no objection to the principle of using this site for housing. In relation to the reasons for refusal, the Inspector concluded that the proposed development would not have an unacceptable impact on the highway safety of Coventry Road or Nutts Lane and that the proposed highway layout is satisfactory. For these reasons, and taking all other matters into account, the Inspector concluded that the appeal should be allowed.

Inspector's Decision: Appeal allowed (committee decision).

### Conclusion

In conclusion, since the previous committee, the applicant has introduced additional pedestrian safety measures, including the provision of a pedestrian phase to seek to address the issues raised by residents, local groups and members. The scheme has been re-considered by the Director of Environment and Transport (Highways) who considers that the works proposed are acceptable in highway safety terms.

Whilst the application site is outside the settlement boundary of Hinckley, where policies RES5 and NE5 apply, it is considered that the lack of 5-year housing land supply is a significant material consideration which could overcome these policy-based objections, notwithstanding the current improvement in the housing supply position. This site would address part of the current shortfall within the Hinckley area and it is therefore considered that the site is currently acceptable for residential development. It is considered that the layout, design and mix of housing is considered acceptable and will provide a high quality scheme with strong attractive street scenes, a well defined public focal point and architectural detailing and the use of materials which reflects the locality.

The S106 agreement is currently under negotiation and subject to the acceptability of this, it is recommended that planning permission be granted, subject to the imposition of planning conditions.

Within the previous outline application (ref: 06/00786/OUT) the Inspector when dismissing the appeal concluded that “given the existence of a 5-year supply of deliverable housing sites in the Borough, there are, on balance, insufficient material considerations to outweigh the conflict with policy in this case.” The Planning Inspector also acknowledged that “the appeal site will at some time need to be allocated for housing in a future LDF document and it is important in order to ensure the effective, efficient and sustainable use of land, that the pattern of development is determined by the development plan and LDF process.”

Since that time, the circumstances have changed, the Council has an adopted Core Strategy with a commitment to providing a minimum of 1120 dwellings within Hinckley. In addition, Hinckley and Bosworth Borough Council have a shortfall of 134 dwellings, which results in a supply of just 4 years and 9 months, and whilst this alone does not legitimise the approval of inappropriate and non-preferable site, it is however in this case a significant material consideration. Whilst it would be preferable for the site to be considered in line with the LDF process, and be formally designated with the site allocations document, paragraph 72 within PPS3 states that Local Planning Authorities should not refuse applications solely on the grounds of prematurity.

The Inspector also concluded that the proposal would harm the character and appearance of the surrounding area and the setting of the Ashby Canal Conservation Area. Whilst there is a presumption against development in the countryside, it is considered that the site is largely bound by residential development and therefore this site in context with the surrounding development does not represent a ‘typical’ rural countryside location. In addition, the scheme by virtue of its layout, design and landscaping is not considered to significantly impact upon the character and appearance of the setting and the Ashby Canal Conservation Area. It is therefore considered that the issues identified by the Planning Inspector within the previous outline application, have been overcome within this planning application.

**RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 towards the provision of affordable housing, the provision and maintenance of public and open space facilities, landscaping, education, canal towpath improvements; public transport provisions and public realm specifications the Head of Planning be granted powers to issue full planning permission, subject to the conditions below. Failure to do so 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 as it: would contribute to the current shortfall in the five year housing land supply and to the shortfall of dwellings required in the Hinckley area; would not have an adverse impact upon the character and appearance of the countryside and preserve the Ashby Canal Conservation Area; would not have an adverse impacts upon flooding, ecology, biodiversity and archaeology or residential amenity; and would contribute to the provision of affordable housing and other infrastructure and services.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policies 1, 15, 16, 19 and 24.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies NE5, REC6, BE7, RES5, IMP1, BE1, REC2, REC3, NE14, T3, T5, T9 and T11.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The application hereby permitted shall not be carried out otherwise than in complete accordance with the amended application details as follows:-

Existing Site Topography Drawing No; No. Figure 2; Boundary Treatments and Site Furniture Indicative Image Sheet Drawing No's; L-05 Revision A; Landscape Softworks and Hardworks Plan-Sheets 1 to 4 Drawing No's; L-01 Revision D; L-02 Revision D; L-03 Revision D; L-04 Revision D received by the Local Planning Authority on 19 May 2011;

House Type A Drawing No's; A-01 Revision C; Drawing No; A-02 Revision C; Drawing No; A-03 Revision A; Drawing No; A-04 Revision A;

House Type B Drawing No's; B-01 Revision C; B-02 Revision D; B-03 Revision D; B-04 Revision A; B-05 Revision A; B-06;

House Type D Drawing No's; D-01 Revision C; D-02 Revision C; D-03 Revision D; D-04 Revision A; D-05 Revision A; D-06 Revision A;

House Type E Drawing No; E-01 Revision B; E-02 Revision C; E-03 Revision A;

House Type G Drawing No's; G-01 Revision A; G-02 Revision A;

House Type H Drawing No's; H-01 Revision C; H-02 Revision C; H-03 Revision B; H-04 Revision A;

House Type W Drawing No's; W-01 Revision B; W-02 Revision C;

House Type X Drawing No's; X-01 Revision C;

House Type Y Drawing No's; Y-01 Revision B; Y-02 Revision C;

Cycle Shed Drawing No's; CS-01; Single Garages Drawing No; GA-01 Revision A; Double Garages Drawing No; GA-03 Revision A received by the Local Planning Authority on 24 June 2011;

House Type F Drawing No's F-02 Revision E; F-03 Revision B; received by the Local Planning Authority on 29 June 2011;

House Type X Drawing No. X-02 Revision D received by the Local Planning Authority on 12 July 2011;

Preliminary Surface Water Drainage Layout Drawing No. 60155775-CIV-PD-001 Rev C received by the Local Planning Authority on 18 July 2011;

Site Location Plan Drawing No; LP-01 Revision A received by the Local Planning Authority on 26 July 2011;

Materials Layout Drawing No; ML-01 Revision C; Phasing Plan Drawing No; PH-01 Revision B ; Site Sections – Sheets 1 and 2 Drawing No's; SC-01 Revision C; SC-02 Revision B; Street Elevation- Sheets 1 and 2 Drawing No's SE-01 Revision C; SE-02 Revision C received by the Local Planning Authority on 25 August 2011;



Site Layout Drawing No; SL-01 Revision P; Road Adoption Plan Drawing No. RAP-01 Revision C; Adoption Plan of Canal Frontage Drawing No. RAP-02 Revision B; Adoption Plan of Swales Drawing No. RAP-03 Revision B; House Type F1 Drawing No's F1-01 Revision F and F1-02 Revision G received by the Local Planning Authority on 27 October 2011.

Nutts Lane Canal Bridge Footway Widening Drawing No. GA-003 Revision L received by the Local Planning Authority on 20 January 2012.

- 3 Notwithstanding the submitted details, before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages 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 submitted plans, prior to the commencement of any dwelling a detailed scheme of the external appearance of the proposed pumping station and programme of implementation shall first be submitted to and approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the approved scheme.
- 5 Notwithstanding the submitted plans, no development shall commence until a detailed scheme of the external appearance of the proposed footbridge in the south east corner, as identified on Drawing SL-01 Revision P, and programme of implementation is first submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 6 No development shall commence until such time as the proposed ground levels of the site and proposed finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 7 No development shall commence until details of a scheme to safeguard the existing hedgerow along the northern boundary (except where it is proposed to be removed to create pedestrian access to the towpath) of the site (including full details of protective fencing to be erected) during construction of the development and programme of implementation have first been submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved scheme.
- 8 Notwithstanding the submitted plans no development shall take place until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details. These details shall include:-
  - a) Planting plans
  - b) Written specifications
  - c) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - d) Maintenance schedule
  - e) Implementation programme
  - f) Areas to be grassed
  - g) Treatment of hard surfaced areas (including the footway access from the site to the adjacent canal towpath)

- h) Details of the landscape management plans for the hedgerow to the northern boundary in its entirety.
- 9 The approved soft and hard landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 10 Prior to the commencement of any dwelling, a Noise Impact Assessment for the proposed pumping station and programme of implementation shall first be submitted and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details.
- 11 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 9 May 2011, Ref: 60155775/FRA/001 (including the mitigation measures detailed within it).
- 12 No development shall commence until a detailed scheme including drainage plans for the disposal of surface water and foul sewage have first been submitted to and approved in writing by the Local Planning Authority and these works shall be implemented in accordance with the approved scheme. The details shall include:-
- a) A detailed Ground Investigation to ensure adequate geological, hydrological and ground conditions on the site
  - b) Surface water discharge from the site should be limited to the equivalent Greenfield rate of run-off (11.4 l/s)
  - c) The layout of the proposed development and the design of the new on-site surface water drainage system should allow for the excess run-off from an exceptionally intense local rainstorm to be confined for the duration of the storm within the site. As a surface water pumping station is proposed, the potential failure of the pump should be considered when modelling the extreme storm events
  - d) The detailed design of the on-site surface water drainage system should take into account the possible effects of climate change on storm run-off over the next hundred years
  - e) The detailed design of the proposed SUDS features
  - f) Implementation Programme
  - g) Future adoption and management.
- 13 No development shall commence until a scheme to install trapped gullies or a suitable alternative has first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 14 No development shall commence until a detailed construction environmental management plan has first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme. The details shall include:-
- a) how, during the site preparation and construction phase of the development, the impact on local residents and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination
  - b) a plan showing how such controls will be monitored

- c) procedure for the investigation of complaints.
- 15 No development shall commence on plots 1-10 inclusively and plot 84 until such a time as details of window specifications with sound reduction and passive acoustic ventilation, in accordance with the recommendations in the Noise Assessment and programme of implementation have first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 16 No development shall commence until a scheme for the lighting of all roads, parking areas and open spaces adjacent to the northern boundary of the site, as identified on drawing RAP-2 Revision B and programme of implementation have first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 17 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the residential units hereby approved can be constructed to a minimum of Code Level 3 shall be 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 residential units have been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.
- 18 The windows, as identified as obscure glaze on drawings no's A-02 Rev C; B-06; D-01 Rev C; D-02 Rev C; D-03 Rev D; D-04 Rev A; D-05 Rev A; D-06 Rev A; E-01 Rev B; E-02 Rev C; E-03 Rev A; F-01 Rev F; F-02 Rev E; F-03 Rev B; F1-01 Rev E; F1-02 Rev F; G-02 Rev A; H-02 Rev C; H-03 Rev B; H-04 Rev A; X-01 Rev C; X-02 Rev D; Y-01 Rev B; Y-02 Rev C shall be fitted with obscure glass and be non opening and retained this way thereafter.
- 19 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, B, C, D, F, G shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority on plots 11-15; 24-33; 41-49 and 53.
- 20 The approved Residential Travel Plan (Final Rev 1, dated 4 May 2011, submitted by WSP UK) shall be implemented and reviewed in accordance with the approved details.
- 21 Before first occupation of each dwelling hereby permitted, appropriate pedestrian visibility splays in connection with the access serving that dwelling, in accordance with the details shown on drawing No. 19649 RAP-01 Rev C, shall be provided 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 that way thereafter.
- 22 Prior to the first occupation of any dwelling hereby permitted, the off-site highway work as detailed on Drawing No. GA-003 Rev L received by the Local Planning Authority on 20 January 2012 shall be implemented in accordance with these approved details.
- 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 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.
- 25 Before the first occupation of any dwelling hereby approved, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and shall be so maintained at all times.
- 26 Before the first occupation of any dwelling hereby permitted, the respective car parking provision shall be surfaced, marked out and made available in accordance with Drawing No. SL-01 Revision P.

**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 enable the Local Planning Authority to retain control over the external appearance, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To enable the Local Planning Authority to retain control over the external appearance, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development has a satisfactory visual appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 To protect the existing hedgerow during development in order to secure its retention as a wildlife habitat and to protect the character, appearance and biodiversity importance of the adjacent canal corridor and to preserve the character and appearance of the Ashby Canal Conservation Area to accord with Policies BE1, BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS5 and PPS9.
- 8 In the interests of visual amenity and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and biodiversity importance of the waterway corridor and to preserve the character and appearance of the Ashby Canal Conservation Area, to accord with Policies BE1, BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan.
- 9 In the interests of visual amenity, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

- 10 To safeguard the amenities of surrounding residential dwellings and future occupiers of the proposed dwellings, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 11 To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site; to reduce the impact of flooding on the proposed development and future occupants and to reduce the risk of flooding to the proposed development and future occupants to accord with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS25.
- 12 To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, protect the water quality, minimise the risk of pollution and ensure future maintenance of the surface water drainage system to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within PPS25.
- 13 To protect the water environment to accord with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS25.
- 14 To safeguard the amenities of surrounding residential dwellings and future occupiers of the proposed dwellings to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 15 The premises are close to industrial units and a noise attenuation measures are required to safeguard the amenities of future occupiers of the plots identified, to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 16 To minimise the problems of glare, show consideration for bats and to avoid unnecessary light pollution which could adversely affect the character and appearance of the Ashby Canal Conservation Area to accord with Policies BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS5 and PPS9.
- 17 In the interests of sustainable development to accord with Policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 18 To safeguard amenities of neighbouring properties to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 19 To ensure that the approved dwelling does not have an adverse impact upon the amenities of occupiers of nearby dwellings or on the visual impact upon the area, to accord with Policies BE1 and BE7 of the Hinckley & Bosworth Local Plan.
- 20 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with Policy T11 of the adopted Hinckley and Bosworth Local Plan.
- 21 In the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 22 To ensure a satisfactory form of development and in the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 23 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 24 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.
- 25 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
- 26 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This 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 The applicant/developer is advised to contact the Works Engineers Team at the Fazeley Office on 01827 252000, in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' "Code of Practice for Works affecting British Waterways. The proposed development includes provision of new accesses to British Waterways land (towpath adjacent to the northern boundary of the Application Site). Such access will require the prior consent of British Waterways including a commercial agreement. Please contact the Estates Team at the Fazeley Office on 01827 252000 for further advice.
- 7 Vehicular and pedestrian crossing of the proposed swales should include culverts designed in accordance with CIRIA document C689, in order to prevent blockage of the swales/surface water drainage system.
- 8 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 bowzers, 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.

- 9 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.
- 10 C.B.R. tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Area Manager.
- 11 The proposed improvement works to the towpath (footpath T54) shall be carried out at no expense to and to a specification provided by and to the satisfaction of the Highways Manager (telephone 0116 3050001).
- 12 A public footpath is adjacent to the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
- 13 The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the Highway works are commenced.

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

**Item:** 02

**Reference:** 11/00823/FUL

**Applicant:** Mr John Deakin

**Location:** Land South Of 26 To 28 Britannia Road Burbage

**Proposal:** ERECTION OF 52 NO. DWELLINGS WITH GARAGES AND ASSOCIATED INFRASTRUCTURE

**Target Date:** 8 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 application (as now amended) seeks full planning permission for a residential development of 52 dwellings with garages and associated infrastructure on land to the south west of Britannia Road, Burbage. The plans originally submitted proposed a development of 58 dwellings but officers raised concerns regarding the extent of the site and its layout therefore amended plans have been submitted as part of the application process to address those concerns and this has resulted in a reduction in the number of housing units. Members will recall that a similar outline residential development for 62 dwellings on the site was allowed on appeal (reference APP/K2420/A/10/2127585) in a decision notice dated 21 July 2011.

The proposed access to the development is from Britannia Road at the north east corner of the site leading to a main access road and private drives serving a mix of detached, semi detached and terraced dwellings of 2 and 2½ storey scale and size comprising of 1 x 1 bedroom, 8 x 2 bedroom, 10 x 3 bedroom, 18 x 4 bedroom and 15 x 5 bedroom dwellings. A total of 39 market housing units and 13 affordable housing units (25%) will be provided with the affordable units being a mix of 75% rented and 25% intermediate housing. Off street car parking is to be provided in garages, on private driveways and within parking courts. The proposed layout also incorporates an area of open space including a balancing reservoir to the south of the site and a small informal area at the entrance to Britannia Road Recreation Ground. A new pumping station is proposed within the southern part of the site adjacent to the balancing lagoon. The proposal includes the widening of the existing access by way of an existing legal agreement and the provision of a pedestrian footway to the site. The public right of way through the site is to be incorporated into the proposed development.

#### The Site and Surrounding Area

There is an existing unmade access, currently serving 5 dwellings, located on the outside of a right angled bend in Britannia Road. The 2.21 hectare site is roughly rectangular in shape and comprises two separate fields bisected by a public right of way. There are currently no buildings on the site but there is a small cluster of trees within the northern field. The ground levels fall to the south of the site and there are field boundary hedgerows and sporadic trees around the perimeter. Britannia Road Recreation Ground lies to the west, agricultural fields



lie to the south and part east and residential development lies to the part north and part east of the site.

#### Technical Documents Submitted with Application

A number of supporting documents have been submitted with the application.

The Design and Access Statement advises that the principle of development of the site has been established by the approval of outline planning permission at appeal following a Public Inquiry in 2011. The road layout has been designed with reference to the existing access and the need to incorporate the existing public right of way through the centre of the site. Both frontage development and cul-de-sacs have been incorporated into the scheme in keeping with the village. The proposals seek to develop in a form, density scale and layout to respect and link the adjacent existing built form, secure suitable access to the site by an existing legal agreement, and incorporate affordable housing (25%) whilst having regard to ecological and landscape considerations as well as seeking to provide high environmental standards through compliance with Code 3 of the Code for Sustainable Homes. A balancing reservoir and pumping station have been located at the southern end of the site where there are existing springs.

A Buildings for Life Assessment provides an evaluation of the location of the site in respect of existing facilities and an overview of the provisions and design of the development.

The Transport Assessment states that the proposed development is in a reasonably accessible location, that the scheme will have no detrimental material impact on the operation of the local highway network and that the site layout provides safe emergency and refuse vehicle access. The access proposals are unchanged from those approved by the outline planning permission at appeal. The previously approved off-site highways improvement works have been amended following further consultation with the Highway Authority.

The Flood Risk Assessment and addendum concludes that the development is in Flood Zone 1 and that a number of Sustainable Drainage System techniques may be used to mitigate the flood risks to the site and maintain run-off from the site at existing rates even allowing for potential climate change. The proposed development is not expected to increase the risk of flooding elsewhere. The assessment also recommends the maintenance and extension of existing field drainage ditches to the site periphery to mitigate the risk of overland flow.

The Phase II Ground Investigation Report concludes that the site is suitable for the proposed development subject to compliance with a number of recommendations in the report including further gas monitoring, sampling, testing and surveying.

An Archaeological Desk Based Assessment, Geophysical Survey and Evaluation Report including metal detector surveys and trial trenching have been submitted. The archaeological works carried out have identified that archaeological features/remains are present within the site.

A Desk Top Study and Phase I Habitat Survey indicates a low-medium potential for great crested newts and medium or medium-high potential for reptiles, bats and breeding birds within the site. It recommends additional ecological surveys be carried out in respect of certain species prior to any works commencing, the retention and protection of boundary trees and hedgerows and measures to enhance the biodiversity of the site.

The Tree Survey concludes that where possible all trees and hedgerows should be retained unless indicated in the report for health and safety reasons. It recommends that retained trees should be subject to the preliminary management recommendations of the survey.

A Draft Heads of Terms for Section 106 Agreement indicates the provision, subject to Community Infrastructure Levy (CIL) Regulations and Circular 05/2005 compliance, of contributions to affordable housing (25%), healthcare facilities, education, sustainable transport initiatives, library contributions, public play and open space facilities contributions, civic amenity, police facilities and section 106 monitoring contributions. The Affordable Housing Statement considers that the affordable housing requirement for the site should be 25% with an appropriate mix of tenure and that the previously offered 30% was made without the benefit of any viability assessment.

The Economic Viability Assessment states that the use of economic viability appraisals to determine realistic requirements for planning contributions and affordable housing is established in national planning policy guidance and the draft National Planning Policy Framework. The assessment recommends that the economic viability appraisals submitted demonstrate that a 25% provision of affordable housing is the viable maximum that this development can support taking account of the wider planning gain contributions being sought to enable the development to come forward.

During the course of the application amended plans have been received in respect of the site area, overall planning layout, house and garage type plans and elevations along with additional chimney layout and details and an amended Arboricultural Assessment.

**Relevant Planning History:-**

09/00915/OUT	Erection of 62 Dwellings and Associated Access	Refused Appeal Allowed	23.03.10 21.07.11
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## **Consultations:-**

No objection has been received from:-

Sports Council East Midlands Region  
Head of Community Services (Land Drainage).

No objections have been received subject to conditions from:-

Directorate of Chief Executive (Archaeology)  
Severn Trent Water Limited  
Head of Business Development and Street Scene Services.

Director of Environment and Transport (Highways) has no objection subject to conditions and off-site highway improvement works but highlights concerns in respect of the adoptability of the road layout and inadequate internal dimensions of proposed garages. The consultation response to the amended layout will be reported as a late item to the agenda.

Director of Environment and Transport (Rights of Way) has no objection subject to the retention and appropriate improvement of the public footpath U65 that passes through the application site.

Directorate of Chief Executive (Ecology) does not object to the application subject to any necessary additional surveys being carried out and enhancement measures undertaken.

Primary Care Trust provide details on capacity issues with the provision of health care facilities provided at the Tilton Road Surgery in Burbage which is closest to the development. A financial contribution of £29,290.80 was originally requested to address demand for additional consulting and treatment facilities from an increase in the population of Burbage as a result of the development. This figure is likely to change as a result of the reduction in the number of housing units now proposed and will be reported as a late item to this agenda.

Leicestershire Constabulary Crime Reduction Officer requests a financial contribution of £35,148 towards the provision of a range of essential additional policing facilities to mitigate the additional burden on the service from the increase in the population as a result of the development. This figure is likely to change as a result of the reduction in the number of housing units now proposed and will be reported as a late item to this agenda. A condition is recommended to ensure Secured by Design compliance as imposed by the Inspector at appeal.

The Environment Agency has no objection in principle but require further details of the operation of the balancing reservoir in respect of the on site springs, surface water drainage issues, water quality considerations and adoption arrangements. Any further response received will be reported as a late item to the agenda.

Burbage Parish Council object to the application for the following reasons:-

- a) unsatisfactory design or external appearance contrary to the design principles in GN2, 2.2 of the Burbage Village Design Statement
- b) planning obligations should be secured for a range of community infrastructure services and facilities
- c) crime prevention measures should be incorporated
- d) adequate street lighting, boundary fences and a landscaping scheme should be provided
- e) affordable housing located in one area
- f) car parking areas are poorly designed and will attract anti-social; behaviour

- g) safety concerns in respect of the balancing lagoon
- h) adequate protection of boundary required to 26a Britannia Road
- i) inaccuracies in the layout in respect of the location of a tree in the proximity of 40 Britannia Road.

Head of Community Services (Pollution) requests additional information in respect of the Ground Investigation Report before a formal consultation response can be provided. Any further response received will be reported as a late item to the agenda.

The Borough Council's Arboricultural Consultant raises concerns in respect of the contents and accuracy of the tree survey and proposed layout drawing and the unnecessary loss of existing trees around the perimeter of the site due to an unsympathetic layout design. Any further response received in respect of the amended Arboricultural Assessment will be reported as a late item to the agenda.

Site notice and Press notice were displayed and neighbours notified. Eight letters of objection have been received raising the following issues and concerns:-

- a) highway safety - inadequate access/egress for additional traffic flows on a blind bend and additional congestion from additional on-street parking, danger to pedestrians
- b) highway safety - impact on junctions of Britannia Road with Lutterworth Road and Windsor Street from additional traffic
- c) principle - greenfield site, encroachment to countryside
- d) biodiversity - destruction of natural habitat
- e) principle - more suitable sites are available for residential development
- f) residential amenity - adverse impact from noise and pollution during construction
- g) infrastructure - impact on capacity of local schools
- h) layout - affordable housing is all together
- i) infrastructure - decrease in affordable housing percentage
- j) incomplete traffic surveys
- k) layout - reduction in separation distances detrimental to privacy
- l) layout - large parking area could be used as an unauthorised play area
- m) drainage - balancing lagoon will fill with spring water and will require an abstraction licence.

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

Leicestershire County Council (Developer Contributions)  
 Leicestershire and Rutland Playing Fields Association  
 Ramblers Association  
 Cyclist Touring Club.

The consultation period remains open at the time of writing this report and closes on 4 February 2012. Any further consultation responses received before the closing date will be reported and appraised as a late item.

### **Policy:-**

#### National Policy Guidance

Planning Policy Statement 1 'Delivering Sustainable Development' in paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development. Paragraph 27 states that planning authorities should seek to bring forward sufficient land in appropriate locations to meet expected need for housing etc. and promote the more efficient use of land. Paragraph 35 states that high quality and inclusive design

should be the aim of all those involved in the development process and should be integrated into the existing urban form and the natural and built environments.

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to services and infrastructure. Paragraph 12 states that good design is fundamental to the development of high quality new housing. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development well integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access. Paragraph 71 states that where the local planning authority 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 in PPS3 and considerations in paragraph 69. Paragraph 69 requires the local planning authority to ensure that the proposed development reflects the need and demand for housing in, and the spatial vision for, the area and achieves high quality housing of a good mix and makes effective and efficient use of land.

Planning Policy Statement 5: 'Planning for the Historic Environment' sets out the governments' planning policies on the conservation of the historic environment. Policy HE12 advises that where the loss of a heritage asset is justified, local planning authorities should require the developer to record and advance understanding of the significance of the heritage asset before it is lost, using planning conditions or obligations as appropriate. The extent of the requirement should be proportionate to the nature and level of the asset's significance.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' includes the broad aim that development should have minimal impacts on biodiversity and enhance it where possible.

Planning Policy Guidance Note 13 (PPG13): '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 25 (PPS25): 'Development and Flood Risk' aims to ensure that flood risk is taken into account at all stages of the planning process and to reduce flood risk to and from new development through location, layout and design incorporating sustainable drainage systems (SUDS). Paragraph 10 requires flood risk assessments to be carried out to the appropriate degree.

#### 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 Policy

### 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 including a range of house types as supported by policies 15 and Policy 16 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 green space strategy and the play strategy. Policy 4 also seeks to enhance the landscape structure which separates the village from the M69 as supported in the Landscape Character Assessment.

Policy 15: 'Affordable Housing' sets out the Council's requirements for the starting target of 20% affordable housing units on developments of 15 dwellings or 0.5 ha and over in urban areas, including Burbage.

Policy 16: 'Housing Density, Mix and Design' requires a minimum net density of 40 dwellings per hectare within and adjoining Burbage and for a mix of housing types and tenures to be provided on all sites over 10 or more dwellings. In exceptional circumstances, where individual site characteristics dictate and are justified a lower density may be acceptable.

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

The site is outside the settlement boundary of Burbage as defined on the proposals map in the adopted Hinckley and Bosworth Local Plan.

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' seeks 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 scale, layout, density, design, materials and architectural features; avoids the loss of open spaces which contribute to the quality of the local environment; ensures adequate highway visibility and parking standards; does not adversely affect the amenities of neighbouring properties and incorporates landscaping to a high standard.

Policy BE16 : 'Archaeological Investigation and Recording' requires the developer to carry out satisfactory investigation and recording by an approved organisation before development commences where field evaluation has indicated the presence of archaeological remains and their preservation in situ is not feasible and/or justified.

Policy NE2: 'Pollution' seeks to resist development which would be likely to cause or suffer from material harm through pollution of the air or soil.

Policy NE5 'Development in the Countryside' states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is important to the local economy and cannot be provided within or adjacent to an existing settlement and only 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 the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy NE12 'Landscaping Schemes' states that development proposals 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' requires satisfactory arrangements to be made for the disposal of foul sewage and surface water.

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision for new development unless a different level of provision can be justified.

Policy IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities' requires appropriate developer contributions towards such provision commensurate with the scale and nature of the development proposed.

Policy REC2: 'New Residential Development - Outdoor Open Space Provision for Formal Recreation' requires the provision of an appropriate level of outdoor play space for formal recreation either within the site or alternatively, a developer contribution can be negotiated towards the provision of new facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Policy REC3: 'New Residential Development - Outdoor Play Space for Children' requires children's play space to be provided within development sites or alternatively, a developer contribution can be negotiated towards the provision of new facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

#### Supplementary Planning Guidance/Documents

The Supplementary Planning Guidance: '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 Supplementary Planning Document: '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.

The Supplementary Planning Document: 'Play and Open Space Guide' provides further guidance to developers in respect of the different types of open space and the level of contributions required.



## Other Material Policy Guidance

Hinckley and Bosworth Landscape Character Assessment (2006) recommends enhancement of the landscape structure between the village and the M69.

Burbage Village Design Statement identifies the land between the southern settlement boundary and the M69 as being vital to visual amenity and key to the provision of future leisure and recreational facilities.

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 in respect of this application are: the principle of development, the five year housing land supply and the previous appeal decision; impact on the character and appearance of the countryside; design and layout; access and highway safety issues; impact on residential amenity; developer contributions and economic viability; flood risk and impact on controlled waters; ground investigation; ecology; archaeology and other issues.

### Principle of Development, Five Year Housing Land Supply and Previous Appeal Decision

The application site lies outside of the settlement boundary of Burbage and is therefore within an area designated as countryside. Policies NE5 and RES5 seek to protect the countryside for its own sake and only allow development which would not have an adverse effect on the character or appearance of the landscape or the local highway network or road safety.

Notwithstanding this policy objection, the Local Authority is currently unable to demonstrate a five year housing land supply of deliverable and developable sites based upon the most up to date (1 October 2011) monitoring figures. These indicate a cumulative shortfall of 134 dwellings equating to a current supply of 4.72 years (or 4 years and 9 months of supply). Policy 4 of the adopted Core Strategy allocates a minimum of 295 dwellings for Burbage focussed primarily to the north of Burbage but this does not exclude the consideration of other smaller development sites. The Draft Site Allocations and Generic Development Control Policies DPD (which has not yet been subject to independent examination nor formally adopted) identifies a largely 'brownfield' site known as Sketchley Brook between Rugby Road and the A5 as the preferred option for the residential allocation for Burbage. The Sketchley Brook site has recently been granted outline planning permission for a mixed use development including up to 375 dwellings and primary infrastructure and highways improvement works have also been approved. The first reserved matters application relating to the road and path infrastructure was approved at Planning Committee on 10 January 2012, other reserved matters applications are yet to be submitted.

The previous appeal decision (reference APP/K2420/A/10/2127585) granted outline planning permission (reference 09/0915/OUT) for residential development of 62 dwellings on the Britannia Road site (including access and layout with all other matters reserved). In his decision notice the Inspector referred to paragraph 71 of PPS3 that makes it clear that where there is a shortfall in the five year supply, applications for housing should be considered favourably having regard to the criteria of paragraph 69 of the PPS detailed in the policy section above. The Inspector considered that overall the proposals would accord with

paragraph 69 of PPS3 and would provide significant benefits in terms of housing supply if brought forward now.

The approval of this full application would enable these units to be brought forward and contribute towards the Core Strategy housing requirement for Burbage, towards addressing the shortfall in the overall five year housing land supply and the provision of affordable housing units in an area of identified need, without compromising the preferred options site or the spatial vision of the adopted Core Strategy. As a result of the current housing supply position in the Borough and the previous appeal decision, it is considered that the principle of development is acceptable in this case.

#### Impact on the Character and Appearance of the Countryside

The application site lies in a sustainable location close to the centre of the village and adjacent to the current built form of Burbage. There is existing development within the settlement boundary of Burbage both further to the west (Bullfurlong Lane) and further to the east (Lutterworth Road). The ground level of the site falls towards the south and whilst residential development of the site would clearly change the character and appearance of the site itself, its boundaries include mature field hedgerows and trees and provide both visual and physical separation from the recreation ground to the west and the countryside beyond and to the south. The site forms a small part of the total area of countryside between the southern boundary of the village and the M69 and when viewed from the wider landscape to the south would be seen against a background of the existing built form of Burbage. The site is well screened from long distance views from outside the site.

In his previous appeal decision notice the Inspector noted that 'whilst the proposal would cause some harm in landscape terms, it would not be significant'. In these circumstances, and notwithstanding the Landscape Character Assessment and Burbage Village Design Statement, it is considered that any harm caused by the impact of the development on the character and appearance of the countryside does not outweigh the need to maintain a five year housing supply.

#### Design and Layout

The proposed development of 52 dwellings together with the associated access and informal open space areas on this 2.21 hectare site will provide an overall net density of 23.5 dwellings per hectare. Whilst this is significantly below the minimum of 40 dwellings per hectare required in areas adjoining Burbage by policy 16 of the adopted Core Strategy the policy does allow for lower densities where individual site characteristics can justify the reduction. In this case, the surrounding area is characterised by relatively low density housing, the application approved on appeal provided only a slightly higher density of 26.4 and the site now includes the provision of a pumping station to address surface water drainage issues. As a result, the reduced density is considered to be acceptable for this edge of settlement location and to reflect the character of the surrounding area.

Amended plans have been submitted to address previous concerns raised by officers in respect of the proposed layout. The layout will create a street hierarchy with a number of shared driveways leading off from the main shared surface access road to encourage cars and pedestrians to share the space. This approach will help create a sense of place within the development. Visual interest will be provided throughout the development by virtue of the position of the dwellings in relation to the streets and vistas. A good mix of house types is proposed along with adequate private amenity areas and the varied approach to parking, providing a majority to the side and rear of the dwellings in a parking court will ensure that the development will not be car dominated. Adequate separation distances are provided between the proposed and existing properties such that there will not be an adverse impact

on neighbours in respect of loss of privacy or amenity. Whilst limited open space will be provided within the site, due to the close proximity of available recreation space adjacent to the site this is not detrimental in this case. The existing public footpath running through the site will be incorporated into the layout of the development promoting permeability and links to the surrounding countryside. A balancing reservoir and associated pumping station will be provided at the southern end of the site as measures to mitigate and control surface water run-off and flood risk.

The surrounding area is characterised by detached and semi detached dwellings of 2, 2½ and single storey proportions. This scheme proposes detached, semi detached and terraced dwellings of 2 and 2½ storey proportions and therefore the scheme reflects the character of the surrounding area. A varied range of house types are proposed within the scheme providing a range of designs, sizes and architectural features including chimney stacks, corbelled eaves, brick headers, cills, decorative brick string courses, bay windows and front door canopies. It is considered that the design approach has been carefully considered and that the variation enhances the visual appearance of the overall scheme. No details of external materials have been submitted with the application but can be secured through the imposition of a condition requiring the details and samples to be submitted for prior approval.

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. Whilst the submitted Design and access Statement and Viability Assessment confirm that the homes are to be constructed in compliance with this standard, no details have been submitted with the application, therefore, such details will need to be secured via the imposition of a planning condition requiring them to be submitted prior to commencement on site.

#### Access and Highway Safety Issues

Access to the development from Britannia Road will be from the north-east corner of the site. An existing legal agreement with an adjacent landowner will enable improvements to the width and surfacing of the existing private track and provide a pedestrian footway into the development to secure satisfactory access to the site as detailed on the submitted amended plans. It is intended that a majority of the internal road layout is to be adopted by the Highway Authority. A swept-path analysis has been undertaken and submitted to demonstrate that the road layout will allow for the manoeuvring of emergency and refuse and recycling vehicles as required by Manual for Streets. The amended plans demonstrate that adequate car parking will be provided to serve the proposed dwellings.

The Director of Environment and Transport (Highways) does not object to the application subject to the imposition of a number of highway related conditions including the implementation of a number of off-site highway improvement works to nearby road junctions with Britannia Road. Certain off site highway works as shown on Mayer Brown plans number GBBURBAGE.1/01 and 1/05 were agreed with the highway authority prior to the appeal hearing and were included in the inspector's decision. The revised BWB Consulting drawings show the same improvements with a number of changes as follows:-

- a) Plan no NTT/662/100 P1 Windsor Street/Freemans Lane - proposed no waiting lines are now implemented
- b) Plan no NTT/662/101 P1 Britannia Road/Lutterworth Road -give way sign deleted due to narrow footway width; high friction surfacing and VAS sign deleted as adequate visibility is achievable at the junction, and there is no accident history at this junction for vehicles exiting Britannia Road.

Whilst the current proposed improvement works to these junctions have been amended, with some elements deleted, from those agreed at appeal, they are nonetheless acceptable to the

Highway Authority to mitigate any impact from the development on highway safety and can be secured by the imposition of conditions as recommended. Conditions relating to access driveway and car parking construction and the set back of garage doors for certain plots can also be imposed in the interests of highway safety. However, a number of other recommended conditions relating to the construction period do not comply with the tests of Circular 11/95 and have not been imposed. The Director of Environment and Transport (Highways) has raised concern in respect of the internal dimensions of the proposed garages, however, amended plans have now been submitted with internal dimensions of 6 metres x 3 metres and are acceptable. The Director of Environment and Transport (Highways) also raised issues in respect of the adoptability of the internal road layout. The further comments of the Director of Environment and Transport (Highways) on the adoptability of the amended layout have not been received at the time of writing this report and will be reported as a late item to this agenda.

Objections have been received in respect of congestion from on-street parking and danger to pedestrians, however, this issue was considered by the Inspector in his decision on the appeal application and there is no evidence to suggest that the development will be detrimental to highway safety in this respect. The Inspector also considered that the submitted traffic surveys were satisfactory.

#### Impact on Residential Amenity

The site is bordered by residential dwellings to the north and east of the site. Objections have been raised in respect of loss of privacy as a result of a reduction in the separation distances that were previously approved on appeal. However, this is a separate full application which must be considered on its own merits. Whilst there are windows to habitable rooms on the side elevation of the dwelling to the north of the site (26a Britannia Road), the proposed garage of plot one is located approximately 5 metres from the side elevation and positioned at the side of the proposed dwelling to minimise impact on the outlook of the side elevation windows of the existing dwelling. Plots 1 to 4 face towards 28 Britannia Road but have a separation distance of approximately 11 metres to the curtilage boundary and approximately 16 metres to the side elevation which is considered acceptable in respect of the Council's Supplementary Planning Guidance on New Residential Development. The nearest dwelling to 40 Britannia Road has a separation distance of approximately 22 metres and whilst the garage is closer (11 metres) it is only single storey and will be screened to a large extent by landscaping.

Objections have been received in respect of potential noise and pollution created during the construction process. However, this will be temporary in nature and will not have any significant adverse impact on residential amenity in the long term.

Overall, the proposed layout as amended is considered to respect the privacy and amenity of adjacent residential properties providing adequate, (even if reduced in some cases) separation distances to ensure that the proposed dwellings do not adversely affect residential amenity of existing dwellings either from loss of privacy from overlooking or by having any adverse overbearing impact.

#### Developer Contributions

The request for any developer contributions must be assessed against the guidance contained within Circular 05/2005 and comply with the more recent Community Infrastructure Levy (CIL) Regulations 2010. The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

The applicant has submitted a draft Heads of Terms for a Section 106 agreement with the application to be used to secure appropriate contributions to meet policy 15 of the adopted Core Strategy and policies IMP1, REC2 and REC3 of the adopted Local Plan. The applicant indicates that contributions will be made, subject to CIL Regulations and Circular 05/2005 compliance, towards the provision of affordable housing (25% of the units), provision and maintenance of public play and open space, education facilities, library facilities, civic amenity facilities, police facilities and a section 106 monitoring contribution. Having regard to the previous appeal decision the applicant considers that contributions towards healthcare facilities and sustainable transport initiatives have not been justified for this site and do not comply with CIL Regulations or Circular 05/2005.

### Affordable Housing

On sites of over 15 dwellings or over 0.5 hectare in size in the Burbage area, Policy 15 of the adopted Core Strategy requires a minimum of 20% provision of affordable housing. The current proposal offers a higher proportion (25%) of affordable housing than the policy requirement and the split follows the guidance of 75% social rented and 25% intermediate tenure. The proposed provision complies with policy 15 and is therefore considered to be acceptable. Burbage is an area of high demand and low turnover for social housing and the provision will be particularly welcome in this area. The amended layout plan proposes the 13 affordable units to be divided into two clusters within the site which is an acceptable dispersal.

### Public Play and Open Space

Developer contributions towards the provision and maintenance of formal and informal public play and open space will be required to mitigate the impact of additional residential dwellings on the use of such facilities and to comply with policies IMP1, REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan and the Council's Supplementary Planning Document on Play and Open Space, together with the objectives of the Green Space Strategy (2005-2010) and the Quantity/Accessibility Audits of Provision (2007).

Within the Green Spaces Quantity/Accessibility Audit 2007 Burbage was found to be relatively well served by formal outdoor sports facilities with good access to equipped children's play areas and informal amenity green space, however, the quality of the facilities provided in all cases was found to be poor and reducing its capacity to meet the needs of residents. Cost estimates in the audit for improvements to the facilities were estimated at £350,000 for equipped children's play areas and £150,000 for amenity green space within Burbage. In the Audits of Provision 2007, Britannia Road Recreation Ground neighbourhood park was given a quality score of just 37.5%.

A contribution can be requested on the basis that the size of the units proposed will appeal to families who are likely to use the existing facilities and increase the wear and tear of the equipment and land. They are likely to use this facility due to its close proximity and linked relationship to the application site. The contribution being secured will help to mitigate the impact from the future occupiers of the development upon the existing facilities by providing additional facilities and maintaining them. As a result, it is considered that a contribution request is necessary and directly, fairly and reasonably related in kind to this development and can be used to enhance and maintain both formal and informal play and open space facilities at Britannia Road Recreation Ground neighbourhood park located adjacent to the site.

In this case the total contribution required will be £95,095.80 comprising of 51 x £1837.60 per dwelling (split between a capital sum £1140.60 and a future maintenance sum £697.00) and

1 x £1378.20 (split between a capital sum £855.45 and a future maintenance sum £522.75) reflecting a 25% discount for the 1 bedroom dwelling.

### Other Developer Contributions

The consultation responses as set out in the above section of this report specify other requests from:-

- a) Primary Care Trust has requested £29,290.80 based on the originally proposed scheme for 58 dwellings. At the time of writing this report a revised figure based on 52 dwellings has not yet been received and will be reported as a late item to this agenda.
- b) Leicestershire Constabulary has requested £35,148 based on the originally proposed scheme for 58 dwellings. At the time of writing this report a revised figure based on 52 dwellings has not yet been received and will be reported as a late item to this agenda.
- c) No response has been received at the time of writing this report from Leicestershire County Council in respect of education, libraries, civic amenity, sustainable transport or ecology. Any response received will be reported as a late item to this agenda.

On consideration of all of the contribution requirements received in respect of this application and the previous appeal decision, it is considered that the following meet the tests as set out in the CIL Regulations 2010:-

- a) Affordable Housing – (13 units)
- b) Play and Open Space – (£95,095.80)
- c) Police – (£35,148) to be amended following a reduction in the number of units.

The consultation response from Leicestershire County Council in respect of education, libraries and civic amenity facilities and any other measures has not been received at the time of writing this report and will be reported as a late item to this agenda.

### Economic Viability

The Economic Viability Appraisal seeks to demonstrate that a 25% provision of affordable housing is the maximum viable quantum of affordable housing that this development can support, taking account of the wider planning gain being sought, to enable the development of the site to come forward and provide a developer profit of 18.5%. This would make a significant contribution to meeting local housing need, including the provision of social housing. Following the submission of the amended planning layout and a reduction in the number of units proposed, an addendum to the economic viability assessment is being prepared and further details will be reported as a late item to the agenda.

Whilst the level of provision now offered is less than previously offered in the application approved at appeal (30%), it nonetheless exceeds policy requirements and a viability assessment report submitted is considered to be reasonable to justify the overall level of contributions being offered to enable the site to be brought forward.

### Flood Risk and Impact on Controlled Waters

Having taken into account the addendum to the Flood Risk Assessment (FRA), the update to the previous FRA, the decision made by the Inspector in relation to the previous scheme, and previous and current concerns raised by neighbouring residents, the Environment Agency has no objection in principle to the development subject to adequate provision being made within the layout for the storage of surface water runoff and surface water drainage. In order to be able to provide a formal response additional details have been requested in respect of the operation of the balancing reservoir in respect of the on-site springs, surface

water drainage issues, water quality considerations and adoption arrangements. At the time of writing this report these details have yet to be provided and any progress on this issue will be reported as a late item to this agenda. Severn Trent Water Authority has no objection subject to the imposition of a standard condition requiring the submission of drainage plans for approval to ensure satisfactory drainage of the site and to minimise flood risk.

An objection has been received referring to the requirement for the applicant to obtain a water extraction licence in respect of the proposed balancing lagoon, however, this is not a material planning consideration. If the design of the balancing lagoon has to be amended in order to obtain such a licence then a new application may be required for this area of the site.

### Ground Investigation

Notwithstanding the submission of a Ground Investigation Report, the Head of Community Services (Pollution) has requested additional information to be provided in respect of additional lead analysis carried out on the site and the intentions in respect of an area where elevated results for lead were found. At the time of writing this report the additional information has not yet been received and any progress and further comments of the Head of Community services (Pollution) will be reported as a late item to this agenda.

### Ecology

The submitted Ecological Phase 1 Study concludes that the large majority of the site is currently managed to the extent that much of its value for protected species is reduced. However, some potential does exist in the grassland margins, hedgerows and trees around the edge of the site. The study therefore recommends that further specific surveys be carried out before any works are commenced along with general recommendations of good practice and a number of biodiversity enhancement measures. The Directorate of Chief Executive (Ecology) confirms that the application will not impact on any designated sites of ecological importance and does not object to the application subject to any necessary additional surveys being carried out, a watching brief being undertaken for protected species during construction and enhancement measures being undertaken. In order to comply with Planning Policy Statement 9 in respect of biodiversity conservation such works can be secured by the imposition of an appropriately worded condition.

The recommendations in the amended Arboricultural Assessment relate to the planning layout as originally submitted. Only two trees assessed as being of high quality were identified, both being at the southern end of the site and able to be retained as part of the development. It recommends the removal of a number of dead or defective trees around the perimeter of the site together with the removal of a number of trees assessed to be of moderate and low quality within and around the perimeter of the site in order to facilitate the development. Following comments received from the Borough Council's Arboricultural Consultant and officer concerns in respect of the original layout, an amended layout has now been submitted that will enable more of the trees assessed to be of moderate and low quality on the perimeter of the site to be retained. The response of the Borough Council's Arboricultural Consultant to the amended layout has not been received at the time of writing this report and will be reported as a late item to this agenda.

### Archaeology

A programme of archaeological assessment including geophysical surveys and evaluation trenching has recently been undertaken within the site. These assessments have revealed that archaeological remains are present and suggest that they are dispersed across the site. The Directorate of Chief Executive is satisfied that an appropriate mitigation strategy can be

formulated but it will be necessary to ensure that any currently unidentified remains are not overlooked. Therefore to ensure satisfactory investigation and recording a further phased programme of archaeological work is required in order to comply with Planning Policy Statement 5 and policy BE16 of the adopted Local Plan. These works can be secured by the imposition of appropriately worded conditions.

#### Other issues

Public footpath U65 passes through the site and is to be upgraded and incorporated into the scheme to contribute to the permeability of the development. The Director of Environment and Transport (Rights of Way) has no objection subject to these works being carried out and appropriate measures being taken in respect of the right of way during the construction process.

As the waste and recycling collection service is from the boundary with the public highway and the development includes the provision of private driveways, the Head of Business Development and Street Scene Services (Waste Minimisation) has recommended the imposition of a condition requiring the submission of a scheme for waste and recycling storage areas across the site. However, the proposed dwellings benefit from private amenity areas where storage for such containers is available and on collection days can be temporarily taken to the highway boundary. The provision of purpose built areas adjacent to the boundary is also likely to be detrimental to the appearance of the street scene. The condition is not therefore considered to be reasonable or necessary in this case to make the development acceptable in planning terms.

#### Conclusion

The site is outside the settlement boundary of Burbage and under normal circumstances residential development would not be considered acceptable in principle. However, given the guidance in paragraphs 71 and 69 of Planning Policy Statement 3, the recent appeal decision in respect of the site and the current shortfall in the five year housing land supply in the Borough the proposal is considered to be acceptable in principle. The proposed development will be in a sustainable location, suitable for housing and will use land effectively and efficiently to provide a good quality sustainable development with a good layout and a good mix of well designed housing to reflect the need in the area and will not undermine the wider policy objectives of Policy 4 of the Core Strategy. The proposed development will not have any significant adverse impact on the character or appearance of the landscape, residential amenity, highway safety, surface water drainage, land contamination, ecology or archaeology and will contribute to a range of community infrastructure services. The proposals are considered to meet the requirements of relevant national planning guidance, adopted Core Strategy and adopted Local Plan policies and guidance and is therefore recommended for approval subject to conditions and the completion of a section 106 agreement to secure an appropriate level of developer contributions.

#### **RECOMMENDATION:-**

**That subject to an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 or receipt of an acceptable Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide affordable housing and financial contributions towards public play and open space facilities and police facilities, 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 8 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, together with the appeal decision (reference APP/K2420/A/10//2127585) it is considered that subject to compliance with the conditions attached to this permission, the proposed development would provide a significant contribution to the shortfall in the five year housing land supply in the Borough, would use land effectively and efficiently and provide a good quality sustainable development of well designed houses and would not have any significant adverse impacts on the character or appearance of the landscape, residential amenity, highway safety, surface water drainage, land contamination, ecology or archaeology and would contribute to a range of community infrastructure services and facilities. The proposed development is therefore in accordance with the development plan.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009): - Policies 4, 15, 16 and 24.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies RES5, BE1, BE16, NE2, NE5, NE12, NE14, T5, IMP1, REC2 and REC3.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan drawing no. S5516/100/03 received by the local planning authority on 26 January 2012; Planning Layout drawing no. S5516/100/02 Rev I, Chimney Details and Layout Plan drawing no. S5516/100/05 and House Types Plans and Elevations received by the local planning authority on 25 January 2012.
- 3 No development shall take place until details of the finished floor levels of the buildings hereby permitted in relation to existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5 Notwithstanding the submitted details, no development shall take place until details of all existing trees and hedgerows on the land, and those to be retained, together with measures for their protection in the course of development, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6 No development shall take place until details of the positions, design, materials and types of boundary treatment, and a timetable for their erection, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7 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:-

- i) proposed finished levels or contours
  - ii) hard surfacing materials
  - iii) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
  - iv) planting plans
  - v) written specifications
  - vi) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - vii) implementation programme.
- 8 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.
- 9 The development shall be carried out in accordance with the mitigation and enhancement measures in relation to protected species other than the creation of a large pond as recommended in Sections 5 and 6 of the Phase 1 Study Report (7 October 2011) prepared by Ecolocation and a timetable first submitted to and approved in writing by the local planning authority.
- 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 dwellings 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 each of the dwellings 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 take place until details, including samples where necessary, of the means of construction of the access road, its surfacing material(s), and its gradient(s) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12 No dwelling shall be occupied until the vehicular and pedestrian access and parking spaces serving it have been completed in accordance with the approved plans and materials.
- 13 Prior to development commencing full details of highway mitigation works relating to a build out and corner radii provision and associated works at the Freemans Lane /Windsor Street junction, as generally shown on BWB Consulting drawing no. NTT/662/101 P1, shall be submitted to and approved in writing by the local planning authority. Once approved the works shall be carried out in accordance with the approved details prior to the first occupation of any dwelling.
- 14 Prior to development commencing, full details of a scheme to improve junction visibility at the junction of Britannia Road and Lutterworth Road, as generally shown on BWB Consulting drawing no. NTT/662/100 P1 shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details before the first occupation of any dwelling.
- 15 In respect of plots 4, 5, 36 and 37 the garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres for sliding or roller/shutter

doors, 6.1 metres for up-and-over doors or 6.5 metres for doors opening outwards and shall be so maintained at all times thereafter.

- 16 No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:-
- a) The programme and methodology of site investigation and recording
  - b) The programme for post investigation assessment
  - c) Provision to be made for analysis of the site investigation and recording
  - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - e) Provision to be made for archive deposition of the analysis and records of the site investigation
  - f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 17 No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (1).
- 18 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**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 does not have an adverse impact on the residential amenity or character of the area to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that these features of visual amenity value and ecological value are protected during development and thereafter retained to accord with policy NE12 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 9.
- 6 To ensure that the development has a satisfactory appearance in the interests of visual amenity, to protect the privacy and amenity of future occupiers of the site and to ensure that the work is carried out within a reasonable period to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan
- 7 To enhance the appearance of the development to accord with policy NE5 and NE12 of the adopted Hinckley & Bosworth Local Plan.

- 8 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE5 and NE12 of the adopted Hinckley & Bosworth Local Plan.
- 9 To protect and enhance biodiversity within the site to accord with Planning Policy Statement 9.
- 10 In the interests of sustainable development to accord with policy 24 of the adopted Local Development Framework Core Strategy.
- 11 To ensure a satisfactory form of development in the interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure that adequate access and off-street car parking facilities are provided to serve each dwelling to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 13 To improve visibility at the junction and to provide an improved radius at the junction in the interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 To improve visibility at the junction in the interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 15 To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed in the interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 16-18 To ensure satisfactory archaeological investigation and recording to accord with Planning Policy Statement 5 and policy BE16 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -

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

C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.

You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences.

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.

The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.

If the applicants do not wish to seek adoption of the roads, 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. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3057198.

- 6 In relation to conditions 17, 18 and 19, the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the local planning authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Leicestershire County Council Historic and Natural Environment Team, as advisors to the local planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the local planning authority.

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

**Item:** 03

**Reference:** 11/00308/FUL

**Applicant:** Miss Clare Guest

**Location:** Land Opposite Superstore Stoke Road Hinckley

**Proposal:** ERECTION OF 10 DWELLINGS (PART AMENDED SCHEME OF PREVIOUSLY APPROVED PLANNING DEVELOPMENT 08/00349/FUL)

**Target Date:** 24 February 2012

#### **Introduction:-**

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

#### Application Proposal

The application seeks full planning permission for the erection of 10 dwellings, in place of 14 dwellings approved by the earlier residential scheme at Sword Drive, Hinckley (planning reference 08/00349/FUL).

The dwellings propose to be removed consist of two detached dwellings and three blocks of terraces, each with four dwellings per block, the centre terrace being three storey in height. The current proposal is to replace these with 10 detached dwellings consisting of:-

- a) 2 no. Dursley house types, a four bedroomed detached dwelling with a gable facing the highway and bay window to the front and side elevation;
- b) 3 no. Tywford, a detached three bedroomed dwelling with bay window to the front;
- c) 3 no. Hollington house type a two storey four bedroomed property with a forward facing gable and side bay window; and
- d) 2 no. Almeley house type, a detached two storey detached four bedroomed dwelling with an integral garage and forward facing projecting gable.

Amendments of the house types were sought, changing small details so that the proposal better reflected the design of other dwellings within the estate. No re-consultation was undertaken due to the minor nature of the changes.

#### The Site and Surrounding Area

The application site relates to an area of land against the southern boundary and facing the area designated as open space and equipped play area, within the area granted consent for residential development of 145 dwellings. This area of the site has been cleared and is bound to the south by the site boundary that consists of a ditch and hedgerow. Beyond this is the Dorothy Goodman School and playing fields. To the north of the application site, is the remained of the applications site where development has commenced with some properties now being complete and occupied. To the west is the remaining development area beyond which are residential properties. To the east of the site lies Stoke Road and with a supermarket beyond. The site and surroundings are generally flat.

Technical Documents submitted with application

A design and access statement has been submitted in support of the application.

A deed of variation to the signed S.106 agreement to tie the planning obligations from the earlier consent.

**Relevant Planning History:-**

None relevant.



**Consultations:-**

No objection has been received from:-

Highways Agency  
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 Limited.

Director of Environment and Transport (Highways) state that the garages are below the minimum size and therefore can not be counted as off street parking spaces and recommends the case officer to check parking provision.

Site notice and Press notice were displayed and neighbours notified.

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

Neighbours  
Leicestershire and Rutland PCT.

**Policy:-**

National 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.

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.

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 Governments Housing objectives. Paragraph 16 of which lists matters to be considered when assessing design quality; this includes scale, design, layout and access.

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 outlines the regional core objectives that seek the delivery of sustainable development with the East Midlands.

Policy 2 promotes better design by considering the layout, design and construction including reducing CO2 emissions.

#### Local Development Framework Core Strategy 2009

Policy 1: Development in Hinckley- seeks to allocate land for 1120 new houses.

Policy 16- Housing density, mix and design- seek a mixture of housing types and tenures to be provided on all sites of 10 dwellings or more.

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 requires new residential development within Hinckley to be constructed to a minimum of Code 3 of the Code for Sustainable Homes.

#### Hinckley and Bosworth Local Plan 2001

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

Policy RES5- Residential Proposals on unallocated sites, allows for residential development not specifically allocated within the local plan provided the site is within the boundaries of an urban area or rural settlement and the siting, design and layout do not conflict with the relevant plan policies.

Policy BE1- Design and siting of development, seeks to ensure a high standard of design by approving schemes that complements or enhances the character of the surrounding area with regard to scale, density, layout, design, materials, and architectural features; avoid the loss of open spaces that contribute to the quality of the local environment; incorporates

design features that reduce energy consumption; and would not adversely affect the occupiers of neighbouring properties.

Policy T5- Highway design and vehicle parking standards states that the Local Planning Authority will apply the current edition of Leicestershire County Councils "highway requirements for development" to new development.

Policy NE14- Protection of surface waters and ground water quality by undertaking satisfactory arrangements for the disposal of surface water.

Policy REC3- Out door play space for children seeks to provide 0.1 acres of informal children's play space per 20 dwellings.

#### Supplementary Planning Guidance/Documents

The New Residential Development SPG gives further advice and guidance for new residential developments in terms of the siting and design of proposals.

The Play and Open Space Guide SPD demonstrates how relevant policies and standards will be applied to the provision of new and improved play and open space opportunities.

#### **Appraisal:-**

The main considerations with regard to this application are the principle of development, changes to policy, design and appearance, impact on neighbours and highways and other matters. This application forms part of a larger scheme and consideration will be had to this where relevant.

#### Principle of Development

The site is located within the Hinckley settlement boundary as defined by the adopted local plan. The site was granted planning permission in 2008 for residential development and the principle of development has therefore been established.

#### Changes to Policy

Since the original permission for the comprehensive development was approved the Council has adopted the Core Strategy which now forms part of the development plan and must be considered when determining any application. There are several policies within this document that apply to the proposal, as listed under the Policy section of the report. These are discussed where relevant within the main body of the report.

#### Design and Appearance

The proposal consists of ten two storey detached dwellings comprising four different house types. The design of the dwellings varies and incorporates a mix of gable frontages, part gable frontages, integral garages and bay windows. Some of the dwellings are proposed to be part rendered resulting in a mix of materials within the site and generally inline with the mix of materials that exist in the locality.

The approved comprehensive scheme consists of cottage style dwellings incorporating features including arched brick solidier courses and simple canopies across doorways. Render on some elevations is used to break up the brickwork. The details of the proposed dwellings reflect these design characteristics ensuring that the proposal would sit comfortably within the comprehensive scheme.

Details of the materials to be used on the external elevations of the dwelling have also been submitted for consideration. It is proposed to use the same pallet of materials as those approved under the previous scheme, and the mix proposed throughout the 10 new dwellings would maintain the variety already approved. The proposed dwellings would therefore assimilate well into the rest of the development.

The proposed layout of this scheme reflects the linear arrangement of the dwellings substituted by this application. Accordingly there is no material change to the layout of the development and the layout now proposed is considered acceptable.

It is considered that the design and appearance of the proposal would complement the surrounding development and therefore is in accordance with Policy BE1.

The reduction of the number of dwellings proposed in this area results in a less dense form of development adjacent to the site boundary where it backs onto the grounds of the Dorothy Goodman School. The proposal would alter the form of development replacing some of the three storey town houses and terrace development with detached three and four bedroomed dwellings. Policy 16 of the Core Strategy requires residential development schemes to have a mix of house types to add interest and provide a range of dwellings to meet all market needs. The comprehensive scheme contains a mix of dwellings types including semi-detached and terrace properties in close proximity to the area now for reconsideration. It is therefore considered that the development area as a whole provides a good mix which would not be compromised by this application.

The landscaping and boundary treatments of the site were subject to conditions attached to the earlier permission. Accordingly, these details are now no longer relevant to this area of the site subject to this application and revised details are required. Accordingly, landscaping and boundary treatments plans have been requested, appraised and reported as late items.

### Impact on Neighbours

The proposal would be located to the north of the Dorothy Goodman School separated by the rear gardens and a hedgerow. It is not considered that any additional overlooking would result from the proposal than the dwellings already approved. To the north the proposal would face into the development, with the majority overlooking the play area. It is not considered that the proposal would significantly affect overlooking and the amenities of neighbouring occupiers.

The dwellings subject of this application form a linear development with 6 of the plots facing the public open space or highway junctions (plots 87-82). Due to the reduction in the number of dwellings within this area, there is a greater separation between plots, with this space being utilised as parking. With the windows serving habitable rooms located at the front and the back of the dwelling it is not considered that future occupiers of the dwellings would suffer from unacceptable overlooking or overbearing development.

With regard to other properties within the comprehensive scheme, there is no significant difference between the distance separating these dwellings from those substituted and those now under consideration. There would therefore be no impact on the amenities of the occupiers of the other dwellings within the comprehensive scheme.

### Highways

The application proposal would be served by the road layout approved under application 08/00349/FUL and is therefore acceptable. The Director of Environment and Transport (Highways) has commented that the dimensions of the proposed garages fall below the

standards required to enable them to be classed as off street parking spaces. Eight of the proposed dwellings have driveways of a sufficient length to tandem park two vehicles. Given the location of the proposal with bus routes and other services nearby two off- street parking spaces are considered acceptable. Two of the dwellings only have enough space for a single car to park on the driveway. Under the approved scheme four dwellings had integral garages of the same size as now proposed and one off street parking space. Ideally dwellings should have two off street parking spaces per dwelling however the scheme now for consideration reduces the number of dwellings that have substandard off street parking provision. It is therefore considered to be an improvement on the previous scheme and the parking requirements are considered acceptable.

#### Other Matters - Infrastructure Improvement and Affordable Housing

As a major development the proposal triggers a requirement under Policy IMP1 for contributions to offset the impact of the proposal on surrounding infrastructure.

The original scheme was subject to an agreement under Section 106 of the Town and Country Planning Act to secure affordable housing and financial contributions towards the provision of facilities to offset the impact of development. As development has commenced on site, some of the monies have been paid and a portion of the affordable housing units are now occupied. As part of this application a deed of variation to the original S106 agreement has been submitted to tie the current scheme (of a reduced number of dwellings) to the original agreement. It is not proposed as part of this proposal to alter any of the contributions sought. It is therefore considered that the necessary works to the infrastructure will be met through the original S106 agreement.

The area now for consideration does not affect the provision of affordable housing which is being met elsewhere within the comprehensive scheme.

#### Other Matters - Sustainability

Policy 24 of the Core Strategy requires new residential development within the Hinckley area to be constructed to a minimum of Code 3 of the Code for Sustainable Design. This policy was adopted within the Core Strategy in December 2009 after the original decision was issued. The applicant has indicated that the dwellings proposed are not designed to comply with Code 3 and that in this instance they would resist having to provide it given the rest of the site does not have to comply with the Code for Sustainable Homes. It is relevant to this application to consider whether there it is reasonable to request the proposal is constructed to Code 3. The applicant has consent to build 14 dwellings within this area that would not comply to Code 3. It is considered that given the extant consent for the erection of 14 dwellings and this being the developers fall back position, in this instance it would be unpractical and unreasonable to impose a condition requiring this part of the development to comply with Code level 3.

#### Other Matters - Drainage

Severn Trent has no objection to the scheme subject to a condition being imposed requesting drainage details. The drainage if the comprehensive development was considered at the time of the 2008 application and the drainage details have since been approved including connection in to the mains sewer. These dwellings would feed into this approved network, and as the number of dwellings would reduce the impact on the mains is also reduced. It is therefore considered that requesting drainage details would be unreasonable in this instance and this is supported by the Head of Community Services (Land Drainage) and the Environment agency having no comment on this application.

The application site backs onto a ditch that forms the boundary of the site with Dorothy Goodman School. Under the 2008 application the Environment Agency requested a condition restricting the built form of development within 4m of a watercourse, for consistence and as this application backs onto a watercourse this condition has been imposed on this scheme.

### Conclusion

It is considered that the proposal does not result in a significantly different scheme to that already approved. The design and appearance of the dwellings, including the proposed materials would respect the character of the comprehensive development in which they sit and would compliment the development, therefore complying with Policy BE1 of the Local Plan. It is considered that the proposal would maintain an adequate mix of house type throughout the site and therefore would comply with Policy 16 of the Core Strategy. Whilst the proposal would not comply with Code 3 of the Code for Sustainable Homes it is not considered reasonable to impose this condition given that this is part of a larger scheme that was granted permission prior to the policy requiring compliance with the Code for Sustainable Homes. It is therefore considered that the proposal is acceptable.

### **RECOMMENDATION:-**

**That subject to the receipt of a deed of variation of the Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government act 1972, 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 24 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 the design and appearance of the dwellings, the proposed 10 dwellings are considered to compliment the comprehensive development within which the application sits. The proposed dwellings would not detrimentally affect the amenities of any neighbouring occupiers or highway safety. The proposal is therefore acceptable.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009) :- Policies 1, 16, 19 and 24.

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

- 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:-

M109\_01\_G received 25 November 2011  
G02.P[SG]01 Rev A received 25 November 2011  
M109\_L\_03 received 25 November 2011  
4266-SK02 Rev B received 9 January 2012  
4274-SK03H Rev A received 9 January 2012

3255-SK03H Rev A received 9 January 2012  
4251-SK02 Rev A received 9 January 2012  
4266-SK02H Rev A received 9 January 2012  
3255-Sk03 Rev A received 9 January 2012  
4274-SK03 Rev A received 9 January 2012

- 3 For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.
- 4 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 5 There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 4 metres of the top of any bank of watercourses, and/or 3 metres of any side of an existing culverted watercourse, inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.
- 6 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is occupied and shall thereafter permanently remain available for such use.
- 7 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is occupied and shall thereafter permanently remain available for such 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 In the interests of the of road safety to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4&5 To prevent pollution of the water environment to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 6&7 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 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.

**Contact Officer:-** Sarah Fryer Ext 5682

**Item:** 04

**Reference:** 11/00791/OUT

**Applicant:** Mr Konrad Skubala

**Location:** Glebe Farm Kirkby Road Barwell

**Proposal:** ERECTION OF BESPOKE CARE HOME WITH 48 BEDROOMS, ASSOCIATED AMENITIES AND STAFF FACILITIES (OUTLINE - LAYOUT, SITING, APPEARANCE AND ACCESS FOR APPROVAL)

**Target Date:** 27 February 2012

#### **Introduction:-**

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

#### Application Proposal

The application is for demolition of the existing dwelling and erection of a 48 bedroomed care home at Glebe Farm, Kirkby Road, Barwell. This is an outline application, with all matters to be considered excluding landscaping.

It is proposed to demolish the existing farm house and construct a 48 bedroomed care home which would include associated facilities, including communal lounge and dining area and staff accommodation. The building would be located along the eastern boundary of the site facing Kirkby Road and would be generally rectangular in shape with the communal dining area projecting to the west. Access to the site would be via the existing access that runs along the southern boundary of the site.

The accommodation would be provided over three floors with the second floor contained within the roof space and lit by dormer windows and rooflights. The long elevations would be broken up by gable features. The proposal includes an internal courtyard garden and an external garden area to the west of the site. This adjoins the car park that provides 21 spaces. The design and access statement states that as part of the development the access drive and bell mouth junction will be surfaced.

Due to the depth of the proposal the majority of the building would have a flat roof with a mansard appearance to the courtyard elevations. Windows set within the plane of the roof slope would provide light into the rooms on the second floor facing the internal courtyard garden.

The proposal would have a maximum height of 8.2m to the ridge and 4.8m to the eaves and create a total gross internal floor space of 2,649 sq m. The home would employ 30 staff

consisting of 20 full time posts and 10 part time. It is understood that there would be no more than 8 members of staff present at any one time.

The Site and Surrounding Area

Glebe Farm currently consists of a three storey dwelling house and associated amenity area. The farm house has been renovated and is currently used as a private dwelling house. The outbuildings associated with the farm house have been demolished and there are piles of rubble left over from this demolition around the site.

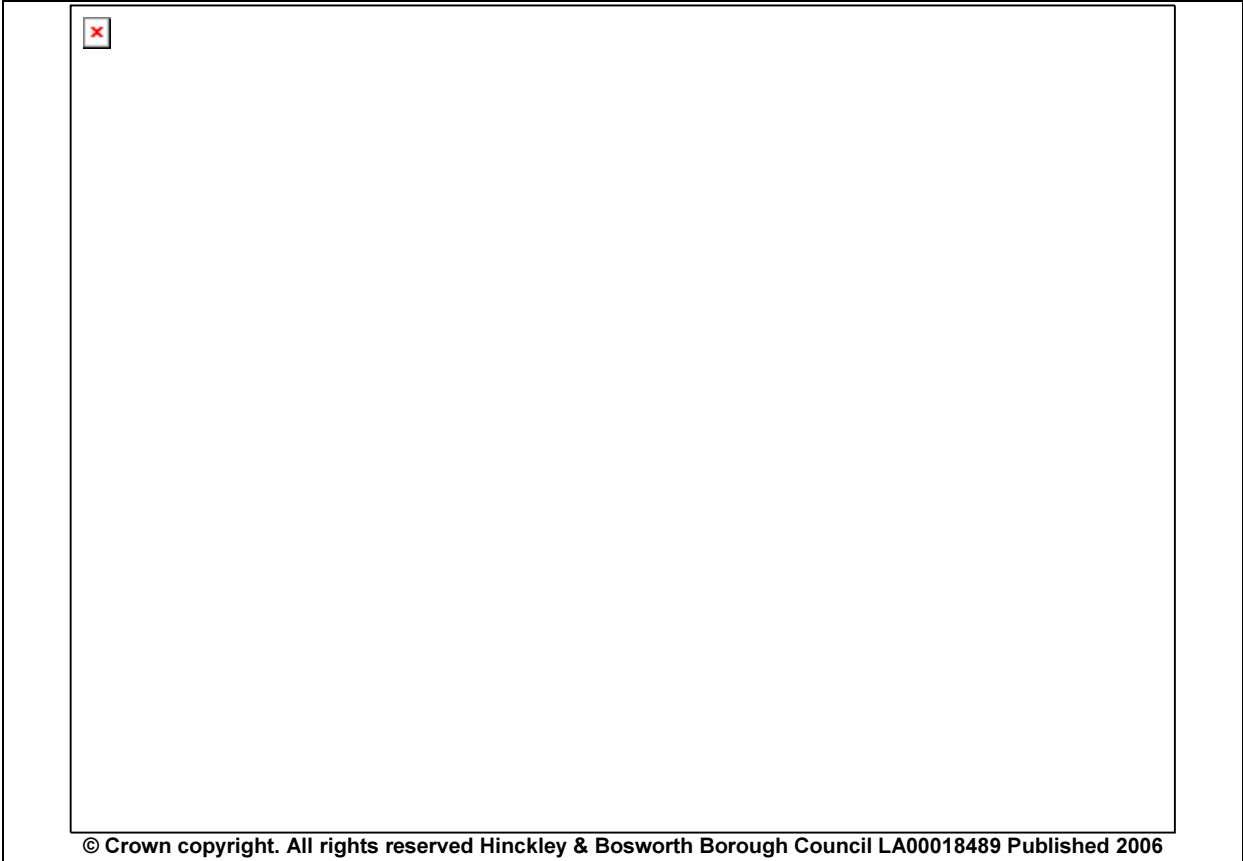
Glebe Farm is located on the west side of Kirkby Road, opposite the junction with Charnwood Road. The site is located outside the settlement boundary of Barwell, which follows the line of Kirkby Road, and then expands to the west to the south of the site to encompass the residential development to the south. Farmland adjoins the site to the north and west, whilst residential properties are located to the east.

Technical Document submitted with application

A design and access statement and ecological report has been submitted in support of the application.

**Relevant Planning History:-**

10/00025/OUT	Residential care home with associated Parking	Withdrawn	07.07.10
09/00017/COU	Change of use to residential care home	Approved	29.06.09





## **Consultations:-**

No objection has been received from:-

Directorate of Chief Executive (Ecology)  
Barwell Parish Council.

No objection subject to conditions have been received from:-

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

Director of Environment and Transport (Rights of Way) - raises no objection but has requested an extension to the footpath to link with the public right of way.

As a result of the Developer Contributions consultation, Leicestershire County Council has not requested any contribution.

The Leicestershire Constabulary Crime Reduction Officer – has requested a contribution of £14,544 to offset the impact on the increase in population on the Police force.

Site notice and Press notice were displayed and neighbours notified.

One letter of objection has been received raising the following concerns:-

- a) requests that attention is paid to the parking arrangements as at present they park on the road and cause obstruction on the highway.

## **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 7 (PPS7): ' Sustainable development in Rural Areas' seeks to raise the quality of life in rural areas, to promote more sustainable patterns of development and promote economic development in rural areas.

### 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 by considering the layout, design and construction including reducing CO2 emissions.

### Local Development Framework Core Strategy 2009

Policy 3: Development in Barwell, supports development within the settlement boundary of Barwell; supports the allocation of land for development of a Sustainable Urban Extension (SUE) to the West of Barwell. Development within the SUE must be in conformity with the Area Action Plan (AAP) and piecemeal development will not be supported; development should respect the character of Barwell.

## Hinckley and Bosworth Local Plan 2001

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

Policy NE5- development within the countryside, protects the countryside for its own sake and restricts development to that which is important to the local economy, for the change, re-use or extension to existing buildings or for sport and recreation purposes providing it does not have an adverse impact on the appearance or character of the landscape, its in keeping with the scale and character of existing buildings and would not generate traffic likely to exceed the capacity of the highway network.

Policy BE1- Design and siting of development, seeks to ensure a high standard of design by approving schemes that complements or enhances the character of the surrounding area with regard to scale, density, layout, design, materials, and architectural features; avoid the loss of open spaces that contribute to the quality of the local environment; incorporates design features that reduce energy consumption; and would not adversely affect the occupiers of neighbouring properties.

Policy T5- Highway design and vehicle parking standards states that the Local Planning Authority will apply the current edition of Leicestershire County Councils "highway requirements for development" to new development

Policy CF8- Residential Care and Nursing Homes, will support proposals where the development compliments and enhances the character or surrounding area in terms of scale, mass, materials and architectural details, is of a suitable size and type, has satisfactory car parking, adequate garden area is provided, has easy access to facilities and the design accommodates the elderly and infirm.

### Supplementary Planning Guidance/Documents

None relevant.

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, design, scale and the size, scale and appearance of the proposed residential home and highway safety.

### Principle of Development

The site is located outside the settlement boundary of Barwell and is therefore located within the countryside. Whilst Planning Policy Statement 7 seeks to support sustainable development in rural areas, Policy NE5 protects the countryside for its own sake and only supports certain types of development required within countryside locations either due to their use or for economic purposes. As it is proposed to demolish the existing building on site, the proposal is for a new building. New residential care homes are not one of the developments supported by Policy NE5 and therefore there is no policy support for the proposal. In the absence of any policy support for the proposal, there is an in-principle objection to a development of this type in this location, particularly given that the applicant has not looked at the availability of other sites for such a development in the locality.

The applicant within the submitted design and access statement seeks to justify the development through meeting the need for additional accommodation for an aging population. Whilst it accepted that there is an increasing need for residential accommodation

for the elderly, it is not considered that this need outweighs principle policy objection to this proposal in this instance.

Notwithstanding the site's location within the countryside, Policy CF8 supported by the SPG on Care Homes states that new residential care homes should be within easy reach of community facilities including shops. The site is located on the edge of the settlement and within 100m of a bus stop that has service every 20 minutes to Barwell village centre and Hinckley town centre.

Previous application (09/00017/COU) found the change of use of the existing dwelling to a care home acceptable however to date this approval has not been implemented. This consent included landscaping and parking provision within the same application site but retained the existing building and rebuilding the single storey outbuildings attached to the dwelling. Accordingly, the scale was much less and therefore the visual impact was minimal and seen within context to the original building.

### Design and Appearance

The proposal would result in a building extending for 46 metres along the frontage to Kirkby Road and projecting 46 metres into the site at the southern end, reducing to 22 metres towards the northern elevation of the building.

Kirkby Road, at the point of the application site begins to take on a rural character especially on the west side of the road, as the footpath ends and the highway edge takes on a softer appearance with grassed verge and a thick hedgerow. On the east side of Kirkby Road development comprises semi-detached 1930's dwellings set back from the highway edge. These dwellings are typical of their time with hipped roofs, projecting gables some bay windows and chimneys. The existing dwelling within the application site has the appearance of a traditional farm house and presents the gable end to Kirkby Road, with the principle elevation facing south.

Policy CF8 requires new residential care homes to complement and enhance the character of the surrounding area by having regard to the scale and mass and architectural details. Policy BE1 relates to all development, and requires development to complement or enhance the character of the surrounding area by having regard to scale, layout, mass and design features.

The proposal in extending along the frontage to Kirkby Road would dramatically alter the character of the area; the scale of which does not reflect the other development in the area. It's considered that the amount of built form along the frontage would dominate this area. When viewed from the countryside to the west and north, whilst seen against existing built form the mass of the proposal would be an incongruous feature within the landscape. Accordingly the proposal is not considered to compliment or enhance the character of the area and is therefore considered contrary to Policies CF8 (a) and BE1.

The design of the residential care home does not reflect the design of surrounding development. Whilst forward facing gables are utilised to break up the elevations, it is only on the southern elevation that they have any symmetry or rhythm. On the west elevation they have an uncomfortable relationship where they appear to overlap. The elevations generally have a horizontal emphasis, whilst the traditional form, and that of the existing farm house is vertical. It is considered that the design of the residential home is not in keeping with the surrounding development or reflects the character within Barwell. The proposal is therefore contrary to Policies BE1 and Policy 3 of the Core Strategy.

### Highways and Parking

The application proposes 21 off street parking spaces. Leicestershire County Council as Highway Authority has issued guidance requiring 1 parking space per 4 bedrooms and one space per every staff member on site. The applicant has stated that at any one time there would only be a maximum of 8 staff members on the premises at any one time. Accordingly a total of 20 spaces are required to meet Highway standards. The provision of 21 is therefore considered acceptable.

The applicant proposes works to the existing bell mouth junction, including extending the highway footway to link with the public footpath, and narrowing the bell mouth slightly and hard surfacing it. The visibility from the junction with Kirkby Road is good and the intensification of the access at this point is not considered to result in a danger to users of the highway. The proposal is therefore considered to comply with Policy T5 of the adopted Local Plan.

### Infrastructure Improvement

The Director of Environment and Transport (Highways) has requested that through an agreement under S106 of the Town and Country Planning Act 1990, that the provision of travel packs be provided for each resident, and improvements are carried out to the nearest bus stops including raising and dropping of the kerbs to allow level access and the erection of shelters. This is in the interests of encouraging sustainable travel to and from the site.

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). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

At the time of writing, the request is being considered and will be reported as a late item.

A request for £14,544 has been received from the Leicestershire Constabulary Crime Reduction Officer. They have calculated that the proposal would increase the settlement population by about 0.5% which would result in a corresponding increase in crime and demand from the new residents for Policing Services. This has been equated to 0.25 full time extra staff. The Crime Reduction Officer has highlighted that the client group would be particularly vulnerable.

This request has been considered with regard to the requirements of the CIL regulations. It is considered that the request does not analyse the impact of the development on the policing of Barwell nor does it state whether there is existing capacity to deal with any impact. The request does not specify whether the staff required by the development would be frontline officers or support staff. It is considered that the request has been generated by using a formulaic approach.

The applicant has confirmed that the Care Home would be staffed 24hrs a day and premises and grounds made secure at night. It is considered that the request does not demonstrate how the development is necessary to the development or how the request directly relates to the development. It is considered that the request is not compliant with the CIL regulations and therefore no request can be made.

### Effect on Proposed Sustainable Urban Extension

The site is located adjacent to land that is allocated as part of the Sustainable Urban Extension to Barwell and the design and access statement suggests that once implemented the development would result in infill development. The emerging Earl Shilton and Barwell SUE Area Action Plan (AAP), is currently at the preferred options stage and was informed by a master planning exercise. Regard was given to the wishes of Barwell residents that a green buffer be maintained between the existing and proposed urban form. This is within the AAP as out door sports provision and would surround the application site to north, south and west.

Given the stage at which the AAP is currently at, little weight can be given to its contents, however should it come forward and be adopted in its current form, the proposal would still sit uncomfortably within the proposal for the SUE and be unlikely to be considered as infill development.

### Landscape

Details of the landscaping proposal are reserved for later consideration as part of a reserve matters application and therefore are not for consideration at the current time. The indicated provision of a courtyard garden and garden to the west of the main built form is considered appropriate and complies with the requirement within Policy CF8 for adequate residential amenity area. It is important to note that whilst landscaping is not proposed at present, it is considered that with a high quality landscaping scheme the development would remain contrary to the requirements of policies BE1, NE5 and Policy as stated above.

### Impact on Neighbours

It is considered that given the distance between the proposal and neighbouring dwellings, in excess of 40m to the closest property number 4 Charnwood Road, the proposal would not detrimentally affect the amenities of near by neighbours.

### Pollution

Due to the former use of the site, should planning permission be granted, the Head of Community Services (Pollution) has requested that conditions be imposed to ensure that there is no contamination remaining on the site that could be harmful to future residents.

### Conclusion

Whilst the use of a care home is an acceptable use for the conversion of the existing property, the demolition and rebuilding of a 48 bedroomed care home is contrary to Policy NE5 as it would result in unwarranted development within the countryside. Due to the design of the proposal in terms of its scale and massing it is considered that the care home would have a detrimental effect on the character and appearance of the area. It is therefore recommended that the proposal be refused.

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

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

**Reasons:-**

- 1 In the opinion of the Local Planning Authority, the proposed development constitutes the creation of a residential care home outside the settlement boundary of Barwell,

with no special overriding justification and is therefore contrary to national guidance contained within Planning Policy Statements 1 and 7, Policy 3 of the Adopted Hinckley and Bosworth Core Strategy and Policies CF8 and NE5 of the Adopted Hinckley and Bosworth Local Plan.

- 2 In the opinion of the Local Planning Authority the proposed development would by virtue of its scale, mass, design and siting would result in incongruous form of development within the countryside. It is considered that such development will have an adverse effect on the appearance and character of the landscape and is out of keeping with the scale and character of the existing site and general surroundings. It is therefore contrary to policies NE5, BE1 and CF8 of the adopted Hinckley and Bosworth Local Plan.

**Contact Officer:-** Sarah Fryer Ext 5682

**Item:** 05

**Reference:** 11/00918/FUL

**Applicant:** Ms C Tremarco

**Location:** Land Adj. Lilac Cottage Cliffe Lane Markfield

**Proposal:** CHANGE OF USE OF LAND FOR PAINTBALLING WITH ANCILLARY BUILDINGS AND STRUCTURES AND ASSOCIATED PARKING

**Target Date:** 3 February 2012

**Introduction:-**

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

Application Proposal

This application seeks full planning permission for the change of use of an area of woodland for paintballing activities and includes the construction of a number of structures within the site and a parking area. The application site will be divided into three areas. The development will utilise the existing vehicular access on Cliffe Lane, Markfield leading to an on-site parking area amongst the trees. Visitors will proceed to a 'safe' zone containing four portable toilets (each 2.44 metres high x 1.2 metres wide x 1.2 metres deep), a timber shelter with polycarbonate roof for changing and refreshments (3.4 metres high x 12.4 metres wide x 4 metres deep), a timber shelter with polycarbonate roof where induction to the activity will take place (3.4 metres high x 10 metres wide x 3.7 metres deep), a green painted steel container (2.44 metres high x 2.74 metres wide x 4.88 metres deep) for storage of equipment, a green painted and camouflaged steel portacabin (2.44 metres high x 9 metres wide x 3 metres deep) for use as an office and other storage and a timber watchtower with polycarbonate roof (5.54 metres high x 3.2 metres wide x 4.2 metres deep) and access ladder. Paintballing activities will take place in the fenced off 'live' zone accessed via a gate beneath the watchtower and this zone will contain three small enclosures (maximum 3 metres in height) to be used as 'team bases'. The proposed opening times are between 10.00am to 4.00pm on weekdays and 9.30am to 4.30pm on Saturdays and Sundays. It is

proposed that there will be a maximum of 50 participants at any one time. There will be 2 or 3 full time employees and up to 10 marshals employed on a part time basis as required.

The application is part retrospective in nature as some of the structures proposed are already on site (steel portacabin) or in the process of being constructed (watch tower and changing/refreshment building), close boarded fencing.

### The Site and Surrounding Area

The application site is located to the north west of Markfield in the countryside and comprises an area of unmanaged woodland measuring approximately 1.35 hectares. It is bounded to the east by a slip road off junction 22 of the M1 motorway, to the north and west by Cliffe Lane and by a dwelling known as Lilac Cottage approximately 35 metres to the south. The application site and the cottage are owned and occupied by the applicant's parents. There is also a motorway services area to the north of Cliffe Lane and Cliffe Hill Quarry to the west. The woodland is made up mostly of conifers and self-seeded sycamores. The site is relatively flat and is enclosed by native hedges, post and rail timber fencing and close boarded timber fencing and gates at the access off Cliffe Lane.

### Technical Document submitted with application

The Planning Statement provides an overview of relevant planning policy and an assessment of the proposal against the policy background. It concludes that there is no adverse impact from the development and that it accords with adopted planning policy.

The Design and Access Statement advises that the proposal will provide the opportunity for rural employment and accessible recreational activity in the countryside that is well related to urban areas. The buildings and structures are mostly grouped together and are designed to minimise their potential impact upon the countryside in terms of their appearance and location within the site. There will be no views into the site because of the dense nature of the woodland.

The Environmental Noise Survey monitored simulated paintballing activities on the site and concluded that the noise generated by such activities are unlikely to have any adverse impact on the residential amenity of Lilac Cottage due to the masking effect of the M1 motorway traffic noise.

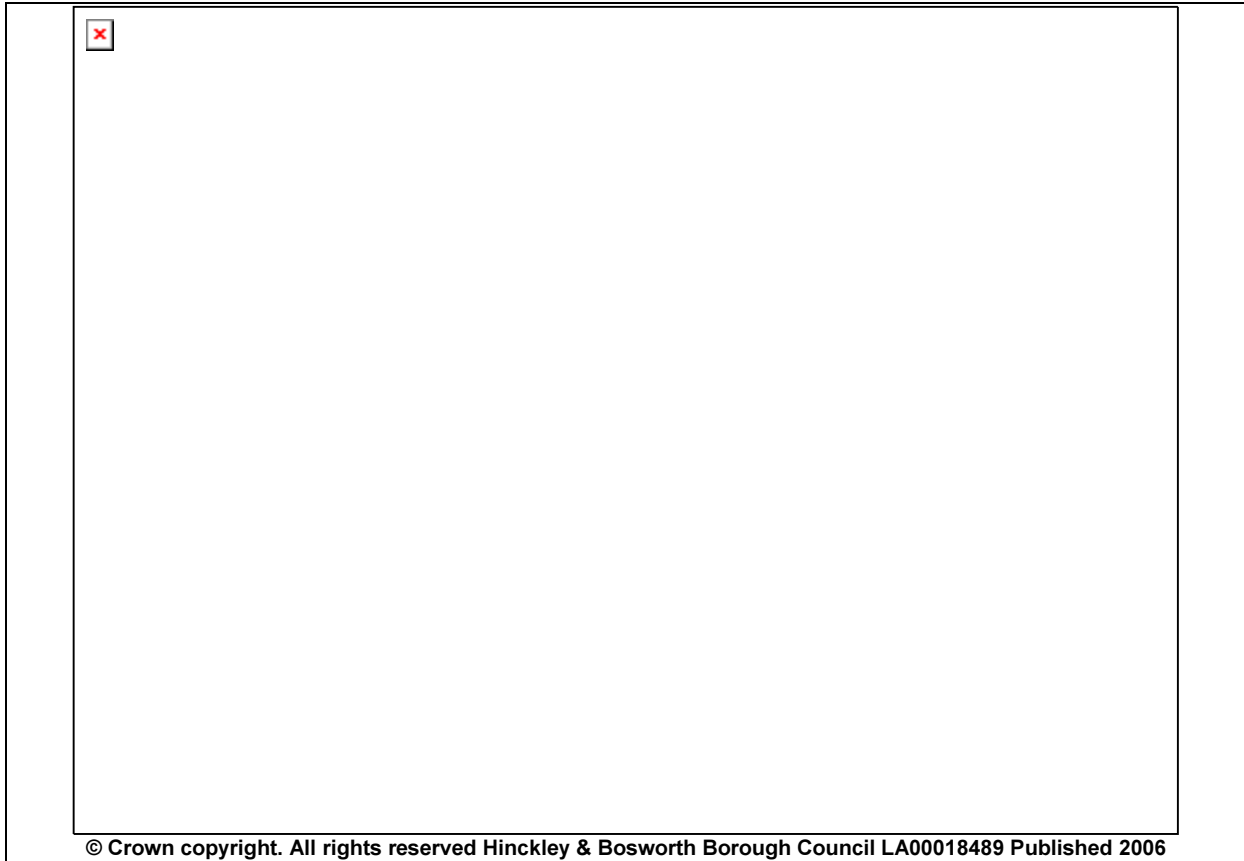
Protected Species Site Assessment Report concludes that the overall value of the woodland for wildlife is low and the proposed use for paintballing activities will not have a significant impact on protected species.

Following the receipt of consultation responses, the agent has confirmed that the applicant has already carried out a number of management measures to improve the woodland since its recent change of ownership and that measures to protect the trees in the car parking area will be carried out.

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

None relevant.





**Consultations:-**

No objection has been received from:-

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

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

Markfield Parish Council do not object to the application but raise observations in respect of the lack of reference in the application to the site being within the Charnwood Forest, to green infrastructure, to future management of the woodland or tree protection in and around the car parking area, incorrect location of the public footpath which is closer than shown; potential for overspill parking on the grass verge outside the site at peak times. The Parish Council suggest that a woodland management plan and tree protection scheme should be submitted as part of the application to protect the trees, to secure the long term future and amenity of the woodland and for measures to be taken to prevent parking outside the application site.

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

National Forest Company  
Friends of Charnwood Forest  
Ramblers Association  
Stanton under Bardon Parish Council  
Site notice

Neighbours.

## **Policy:-**

### National Policy Guidance

Planning Policy Statement 7: 'Sustainable Development in Rural Areas' states that all development in rural areas should be well designed, in keeping and scale with its location and sensitive to the character of the countryside. This PPS also recognises that leisure activities can contribute to local rural economies and employment.

Planning Policy Statement 9: 'Biodiversity and Geological Conservation' seeks to ensure that development does not have any adverse impact on biodiversity.

Planning Policy Guidance Note 17: 'Planning for New Open Space, Sport and Recreation' requires new facilities to avoid any significant loss of amenity to residents or biodiversity and for all development in rural areas to be sensitive in respect of its design and siting to its rural location.

Planning Policy Guidance Note 24: 'Planning and Noise' states that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses. Where this is not possible, consideration should be given to whether it is practicable to control or mitigate the impact of noise through conditions to control the operation of the facility. Noise characteristics and levels can vary substantially according to their source and the type of activity involved. Sudden impulses or irregular noise will require special consideration. Account should also be taken of background noise levels.

### 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` requires the siting and design of new development to be appropriately related to its setting within the forest and to respect the character and appearance of the wider countryside.

Policy 22: `Charnwood Forest` supports proposals that maintain the traditional working landscape of the forest, provide new recreation facilities around the fringes of the area and compliment the local landscape.

#### Hinckley and Bosworth Local Plan 2001

The site lies in the countryside and within the area of the National Forest, Charnwood Forest and an area of Local landscape Improvement as defined on the proposals map in the adopted Local Plan.

Policy BE1: `Design and Siting of Development` seeks 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 layout, design, and materials; ensures adequate highway visibility and parking standards; does not adversely affect the amenities of neighbouring properties and incorporates landscaping to a high standard.

Policy NE2: `Pollution` seeks to resist development which would be likely to cause material harm through pollution of the air.

Policy NE5 `Development in the Countryside` states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy NE10: Local Landscape Improvement Areas designates areas of poorer landscape quality where there is scope for improvement. Within these areas development proposals should include measures to enhance the landscape.

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

Policy REC4: Proposals for Recreational Facilities states that planning permission for new recreational facilities will be granted provided that it does not have a detrimental effect upon the amenity of adjacent residents, the character of the landscape, highway safety or ecology of significance.

Policy T5: Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development unless a different level of provision can be justified.

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, its impact on the appearance and character of the landscape, residential amenity, highway safety and protected species.

#### Principle of Development

The site is located in the countryside and within the areas of the National Forest and Charnwood Forest where there is a general presumption against new development. However, policies NE5, NE10 and REC4 of the adopted Local Plan and policies 21 and 22 of the adopted Core Strategy do allow for certain forms of development within these areas, including that for recreation purposes, subject to the development respecting its setting within the forest, there being no adverse impact on the character or appearance of the landscape, or residential amenity, ecology or highway safety and the provision of appropriate landscaping and all other relevant planning matters being appropriately addressed. For the reasons discussed in the later sections of this report, the principle of development is considered to be acceptable.

#### Layout, Design and Impact on Character and Appearance of the Landscape

The application site comprises an area of mostly dense woodland, particularly at the northern end of the site. At the southern end removal of some low level scrub and dead trees provide some more open areas but these are still screened by boundary vegetation and trees.

The car parking and reception areas ('safe' zones) are located at the southern end of the site with the main activity area ('live' zone) to the north and will be separated from the 'safe' areas by 2 metres high close boarded timber fencing. The layout of the site therefore has regard to the residential amenity of Lilac Cottage by locating the paintballing activity in the furthest part of the site. The proposed ancillary structures for changing, refreshments, induction and team bases are of a scale and design and built of timber materials that respect the rural setting of the site within the Charnwood Forest and National Forest. Whilst the steel portacabin and small steel storage container are not characteristic in appearance, they are required for secure storage of equipment and the use of green paint and camouflage netting in line with the military theme of the activity are proposed as mitigation measures to help assimilate them into the woodland setting and minimise any impact on the landscape. Whilst the proposed watchtower is 5.5 metres in height, it is located well within the site and well below the tree canopy, is constructed of compatible timber materials and as a result will not

be prominent. Views into the site are currently available from public areas and the segregation fencing can be seen. However, this is in part due to the time of year and with additional infill landscaping in the form of boundary hedgerows, the structures will be screened more effectively.

Overall, the layout of the proposed development and the design of the proposed structures is considered to be acceptable and as a result of the proposed materials and mitigation measures and subject to additional landscaping (which can be controlled by condition) the development will not have an adverse impact on the character or appearance of the landscape. The proposals are therefore considered to accord with policies 21 and 22 of the adopted Core Strategy and policies BE1, NE5, NE10, NE12 and REC4 of the adopted Local Plan in this respect.

#### Noise and Impact on Residential Amenity

The only residential property in the immediate vicinity of the site is Lilac Cottage located approximately 35 metres to the south of the site and over 50 metres from the 'live' activity area. This dwelling is currently occupied by the applicant's parents who also own the application site. However, as the proposed development has the potential to impact on residential amenity as a result of sudden impulse noise from the paintballing guns, shouting by those taking part in the activity and general comings and goings, an Environmental Noise Survey has been submitted to support the application. The survey monitored a simulated paintballing session from the residential gardens of Lilac Cottage. The report concludes that the noise generated by the proposed activities are unlikely to have any adverse impact on the residential amenity of Lilac Cottage due principally to the masking effect of the traffic noise generated by the M1 motorway to the east. On that basis, and the proposed limitation in numbers to those taking part in the activity at any one time (which can be controlled by condition), the Head of Community Services (Pollution) does not object to the application. As a result the proposals are considered to accord with policies BE1, NE2, NE5 and REC4 of the adopted Local Plan in this respect.

#### Impact on Highway Safety

It is proposed that the existing vehicular access off Cliffe Lane will be used to the car parking area proposed to be located beneath and between the trees in the south western part of the site. Thirty parking spaces are proposed within the site as some car sharing has been assumed, however, there will be ample space for additional informal overspill parking within the site if ever necessary so that no visitor parking on the highway verge will result. The Director of Environment and Transport (Highways) does not object to the proposal but recommends conditions in respect of the visibility, width and geometry of the access. The grassed highway verge is approximately 10 metres in width at the point of access with sporadic small trees and whilst this tapers to approximately 4 metres towards the south east it is considered that adequate visibility is available given the scale of the proposal and that the verge is in the control of the highway authority. The existing access is surfaced in concrete and has adequate width where it joins the carriageway, however, it tapers to single vehicle width before entering the site. Conditions to improve the width and geometry of the access are considered to be reasonable in this case to mitigate the increase in traffic using the access and prevent queuing in the interests of highway safety to accord with policies T5, NE5 and BE1 of the adopted Local Plan in this respect.

#### Impact on Protected Species/Ecology

The site has been surveyed to consider impact on biodiversity. The Protected Species Site Assessment Report concludes that the overall value of the woodland for wildlife is low as a result of the nature of the trees (mostly conifers), lack of ground cover and clay soil, there

was no evidence of protected species and the potential for bat roosts or nesting birds is very limited. As a result, the proposed use for paintballing activities will not have a significant impact on the nature of the woodland or any protected species and is therefore considered to be in accordance with Planning Policy Statement 9.

### Other Issues

Markfield Parish Council suggests that a future woodland management plan should be submitted to secure the future amenity of the woodland. The nature of the proposed activity is dependent upon a certain level of woodland management and the agent has confirmed that the applicant has already undertaken some clearing and other management work since the relatively recent purchase of the site and therefore a condition requiring such a plan to be submitted is considered to be unnecessary in this case.

Markfield Parish Council has raised concerns in respect of the future viability of the trees in and around the car parking area. The agent has confirmed that there are measures that can be undertaken to secure the protection of the trees in this area. This can be controlled by a condition requiring the submission and approval of a tree protection scheme.

The public footpath is located outside the site and will be unaffected by the proposed activities other than users potentially experiencing some transient noise from the activity.

### Conclusion

Both national planning guidance and local adopted policies allow recreational uses in the countryside subject to all other planning matters being addressed. As a result of the nature of the development, the layout, design, materials and mitigation measures proposed, including additional boundary planting and access improvements the proposed development will not have any significant adverse impact on the character or appearance of the Charnwood Forest, the National Forest, the surrounding landscape, residential amenity, highway safety or biodiversity and is considered to be in accordance with policies 21 and 22 of the adopted Core Strategy, policies BE1, NE2, NE5, NE10, NE12, REC4 and T5 of the adopted Local Plan and relevant national planning guidance. The application is therefore recommended for approval subject to conditions.

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

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, 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 its recreational nature, siting, layout, design, proposed materials and proposed mitigation measures, the proposed development will not have any significant adverse impact on the character or appearance of the Charnwood Forest, the National Forest, the surrounding landscape, residential amenity, highway safety or biodiversity.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policies 21 and 22.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies BE1, NE2, NE5, NE10, NE12, REC4 and T5.

- 1 The use hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan at 1:2500 scale; Proposed Site Layout, Plans and Elevations Drawing Nos. 1 - 11 Revisions 01E inclusive received by the local planning authority on 9 December 2011.
- 3 The materials to be used on the external elevations of the proposed structures, fencing and gates shall be in strict accordance with the details submitted within the approved plans and the submitted Planning Statement received by the local planning authority on 9 December 2011.
- 4 The application site shall not be used for paintballing activities outside of the hours of 10.00am to 4.00pm Mondays to Fridays or outside the hours of 09.30am to 4.30pm on Saturdays and Sundays.
- 5 The number of paintballing participants within the site shall not exceed 50 at any one time.
- 6 Notwithstanding the submitted details, before first use of the development hereby permitted, the vehicular access off Cliffe Lane shall be provided with 4 metre control radii on both sides of the access and shall have an effective hard bound (not loose aggregate) surface width of 4.25 metres for a distance of at least 5 metres behind the edge of the carriageway and once provided shall be so maintained at all times thereafter.
- 7 Before first use of the development hereby permitted, full details of a scheme to protect the existing trees within and around the car park area from any adverse impact from the use of the area for car parking shall be submitted to, and approved in writing by, the local planning authority. The development shall then be implemented in accordance with the approved details.
- 8 Before first use of the development hereby permitted, full details of a scheme to protect the existing trees within and around the car park area from any adverse impact from the use of the area for car parking shall be submitted to, and approved in writing by, the local planning authority. The development shall then be implemented in accordance with the approved details.
- 9 Notwithstanding the submitted details, before first use of the development hereby permitted, full details of a soft landscaping scheme shall be submitted to and approved in writing by the local planning authority and the development shall be implemented in accordance with the approved details. These details shall include:
  - i) planting plans
  - ii) schedules of plants, noting species, plant sizes and proposed numbers where appropriate
  - iii) an implementation programme.
- 10 The approved soft landscaping scheme shall be carried out in accordance with the approved details and 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.

**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 policies BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.
- 4&5 In the interests of the residential amenity of the occupiers of Lilac Cottage, Cliffe Lane Markfield and to accord with policies BE1 and REC4 of the adopted Hinckley and Bosworth Local Plan.
- 6 In the interests of highway safety to accord with policies BE1, NE5, REC4 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 7 To protect the health and viability of the existing trees in this area of the site and to protect the visual amenity of the wider landscape to accord with policy 22 of the adopted Core Strategy and policy NE5 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that adequate off-street parking facilities are available to serve the development to accord with policies BE1, REC4 and T5 of the adopted Hinckley and Bosworth Local Plan
- 9 To enhance the appearance of the development and to ensure that the work is carried out within a reasonable period to accord with policies NE5, NE10 and NE12 of the adopted Hinckley and Bosworth Local Plan.
- 10 To enhance the appearance of the development and to ensure that the planting is thereafter maintained to accord with policies NE5, NE10 and 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The applicant is advised that if it is intended to provide temporary directional signing to the proposed development, you must ensure that prior approval is obtained from



the County Council's Highway Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the Highway without prior approval will be removed. Before you draw up a scheme, the Highway Managers' staff (tel: 0116 3050001) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable. This will reduce the amount of your abortive sign design work.

- 6 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Adoptions team (for 'major' accesses). For further information, including contact details, you are advised to visit the County Council website as follows: For 'major' accesses - see Part 6 of the "6Cs Design Guide" (Htd) at [www.leics.gov.uk/Htd](http://www.leics.gov.uk/Htd).

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

**Item:**                      06

**Reference:**              11/00882/FUL

**Applicant:**              Mr Frank Downes

**Location:**              Land Adj. 6 Caldon Close Hinckley

**Proposal:**              ERECTION OF ONE NEW DWELLING

**Target Date:**        7 February 2012

**Introduction:-**

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

Application Proposal

This application seeks full planning permission for the erection of a single detached dwelling house on a piece of land adjacent to 6 Caldon Close, Hinckley.

The proposal is for a two storey dwelling with rooms located within the roofspace. The dwelling would have a footprint of 14.8m by 8m with a height to the ridge of 6.7m. A front gable is sited to the south-western side of the front elevation which contains the main entrance door. Four dormer windows are proposed to the rear elevation overlooking Clarendon Park with two rooflights proposed to the front elevation. It is proposed to erect a brick wall enclosing the proposed garden area to the northwest of the proposed dwelling and a detached double garage which would be located to the north-western side of the site. The brick wall would be located 1.5m away from the highway boundary and two off street parking spaces are proposed to the front of the garage.

Amended plans have been submitted siting the garage 6.1m back from the edge of the highway. No re-consultation has occurred as this is a minor change that moves the built form further from the residential properties and would not address any objections received.

### The Site and Surrounding Area

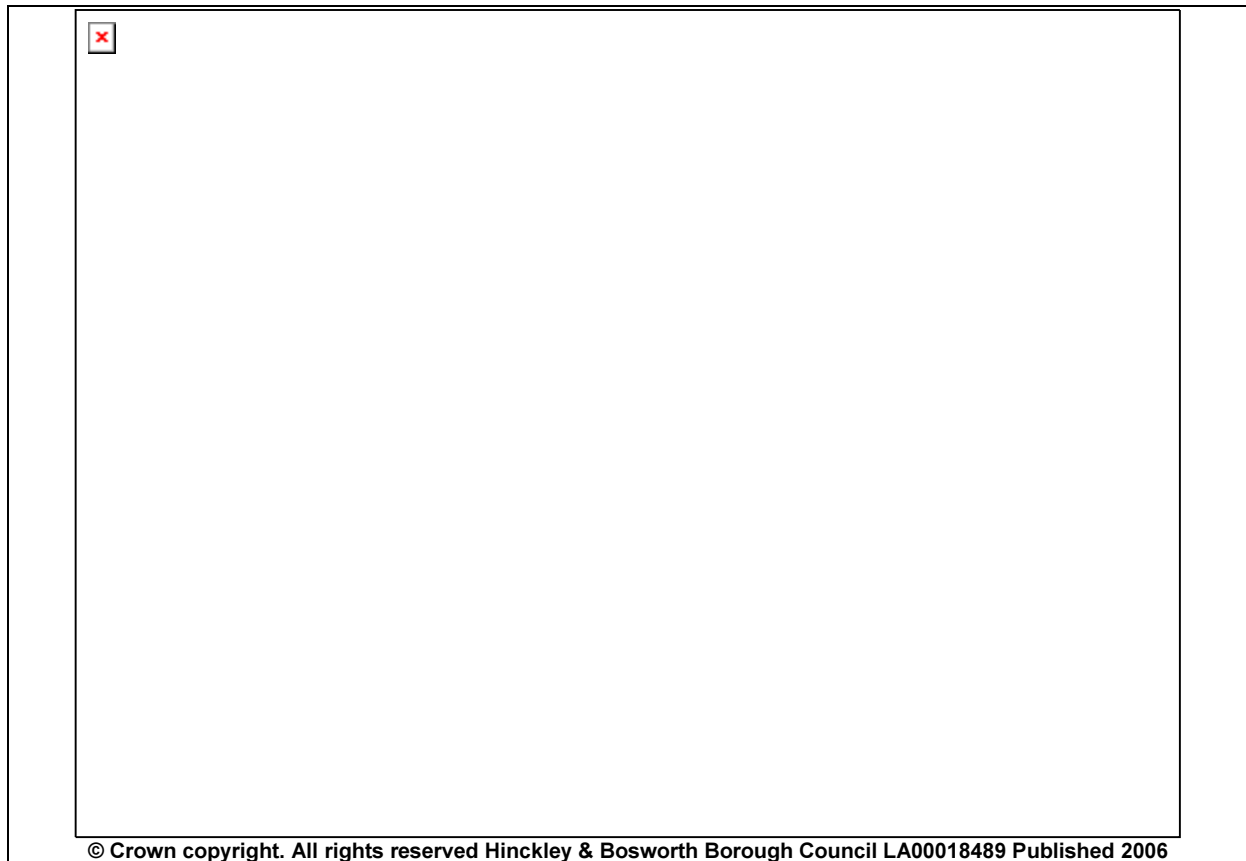
Caldon Close is a residential cul-de-sac that contains a mixture of two storey and single storey detached dwellings. The application site is located towards the end of the cul-de-sac on a piece of green space that contains some landscaping. The site is slightly higher than the level of the highway and is gently undulating with ridges running north to south across the site. There is thick hedging to the northeast and north west boundaries of the site, to the south east the boundary is a low hedge separating the application site from number 6 Caldon Close, a bungalow. To the south west the site is open to the highway. To the northeast of the site borders Clarendon Park, the rest of the site is surrounded by residential properties.

### Technical Documents submitted with Application

A design and access statement has been submitted in support of the proposal.

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

None relevant.



### **Consultations:-**

No objection has been received from:-

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

Site notice was displayed and neighbours notified.

Three letters of objection have been received and a petition containing five signatures raising the following concerns:-

- a) the site has been maintained for a number of years by residents
- b) areas like this should be preserved and not built upon
- c) important for wildlife
- d) the proposal is out of keeping
- e) it's the wrong address.

At the time of writing the report comments have not been received from Head of Business Development and Street Scene Services.

### **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 Governments Housing objectives. Paragraph 16 of which lists matters to be considered when assessing design quality; this includes scale, design, layout and access.

#### 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 by considering the layout, design and construction including reducing CO2 emissions.

## Local Development Framework Core Strategy 2009

Policy 1: Development in Hinckley- seeks to allocate land for 1120 new houses.

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 requires new residential development to meet the Code for Sustainable Homes Level 3.

## Hinckley and Bosworth Local Plan 2001

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

Policy RES5- Residential Proposals on unallocated sites, allows for residential development not specifically allocated within the local plan provided the site is within the boundaries of an urban area or rural settlement and the siting, design and layout do not conflict with the relevant plan policies.

Policy BE1- Design and siting of development, seeks to ensure a high standard of design by approving schemes that complements or enhances the character of the surrounding area

with regard to scale, density, layout, design, materials, and architectural features; avoid the loss of open spaces that contribute to the quality of the local environment; incorporates design features that reduce energy consumption; and would not adversely affect the occupiers of neighbouring properties.

Policy NE2- Pollution, planning permission will not be granted for development which would be unlikely to suffer material harm from either existing or potential sources of air or soil pollution.

Policy T5- Highway design and vehicle parking standards states that the Local Planning Authority will apply the current edition of Leicestershire County Councils "highway requirements for development" to new development.

Policy REC3- Outdoor play space for children seeks to provide 0.1 acres of informal children's play space per 20 dwellings.

### Supplementary Planning Guidance/Documents

The New Residential Development SPG gives further advice and guidance for new residential developments in terms of the siting and design of proposals.

The Play and Open Space Guide SPD demonstrates how relevant policies and standards will be applied to the provision of new and improved play and open space opportunities.

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, siting, design and appearance, impact on neighbours, developer contributions and sustainability.

### Principle of Development

The application site is located within the settlement boundary of Hinckley as defined by the adopted local plan. The principle of development within the settlement boundary is supported subject to the development complying with other relevant policies within the development plan.

The site is not within any residential curtilage but is within an area of green space left at the time of the development. The piece of land that forms the application site is not subject to any specific development plan policy allocation.

### Siting, Design and Appearance

Cladon Close contains a variety of single and two storey detached dwellings. The proposed dwelling is located to the south east of the site, with the detached double garage located to the northern end. The dwelling would be sited 3.8m from the side elevation of No. 6 Cladon Close, which is a single storey bungalow with a shallow pitched roof and chimney. The proposal would have 1.6m higher ridge than this dwelling with a steeper roof pitch. It is considered that the scale and mass of the proposed dwelling are generally similar to other dwellings in the locality and would not detrimentally impact on the character of the streetscene that already contains a mix of single and two storey dwellings.

The proposed dwelling would be sited 0.5m forward of the front elevation of number 6, this small step forward is in general conformity with the siting of other dwellings within Cladon Close. It is considered that the siting of the proposal would not detrimentally affect the

character of the street. The proposal contains enough space around the dwelling and is considered that it sits well within its plot.

The design of development within Caldon Close varies with most dwellings having forward facing gables. Properties opposite the application site have plane gables whilst others incorporate mock timber detailing to the gable. The bungalows are of a simpler design and the street contains a mixture of render and brickwork. Therefore, there is a variety in design and appearance of the properties within the street.

The proposal incorporates a forward facing gable, a characteristic feature of other dwellings within the area. This gable breaks up the mass of the roof and the proposed chimney breaks up the ridge line. The fenestration detail is simple and the horizontal emphasis reflects other development within the street. It is considered that the proposal reflects the design and character of the area.

### Impact on Neighbours

The proposal would have most impact on the dwelling to the southeast, number 6 Caldon Close and the property to the northwest 1 Trent Road. The proposal would also affect the properties opposite, numbers 3 and 4 Caldon Close.

The northwest elevation of 6 Caldon Close is a blank elevation. Whilst the proposed dwelling projects slightly forward (0.5m) of the front elevation, it is not considered that this projection would be enough to detrimentally affect the light currently enjoyed by the residents of this dwelling. As there are no windows to the side elevation of number 6, there is no issue regarding loss of light or overlooking. Whilst the introduction of rear dormers would result in some overlooking of the rear garden of number 6, the garden is already overlooked from the rear windows of number 7. The views from the dormers would be at an angle and would not directly overlook the rear amenity space. This is a common relationship between neighbouring properties and is considered not to result in significant loss of overlooking to the detriment of the amenities of neighbouring residents.

Number 1 Trent Close is located to the northwest of the application site, and is a single storey bungalow. The rear elevation of this dwelling is located 7m from the proposed garage. The application site is separated from the rear garden area of 1 Trent Road by a 1.8m high fence and established laurel hedge that would be removed by this application. Due to the siting of the garage in relation to this dwelling the front elevation of the garage would be level with the external side elevation of 1 Trent Road. It is therefore considered that the proposal would not detrimentally affect the daylight or sunlight currently neither enjoyed by this property nor would result in overbearing development to this property.

A window to the side gable elevation at first floor is proposed facing number 1 Trent Road. There would be a distance of 26 metres between the window and the rear elevation of this dwelling, which exceeds the recommended separation distance contained within the SPG on residential development. It is proposed to erect the double garage between the dwelling and Trent Road and given the height of the garage this would partially obscure any views. It is therefore considered that the proposal would not result in any significant overlooking of the occupiers of 1 Trent Road.

As there are no first floor windows, facing number 3 and 4 Caldon Close and these dwellings are separated from the application site by a public highway, it is not considered that any additional overlooking would occur.

Accordingly, it is concluded that the proposal would not detrimentally affect the amenities of neighbouring residents.

### Developer Contributions

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

The site is located within 400 metres of Clarendon Road Recreational Park. 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). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

Within the Green Space Strategy 2005-2010, Hinckley was found to have a deficiency of equipped play space (-1.20) and surplus of informal play space (3.83) when compared with the National Playing Fields Standard.

The quality of the space has been considered within the Quality and Accessibility Audit update of 2007 which awarded Clarendon Park recreational facility a quality score of 55.9%. The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. As the scheme results in a net gain of a dwelling a total figure of £1250.80 should be sought consisting of £817.80 for provision and £433.00 for maintenance.

It is considered that whilst Hinckley has a sufficiency of informal space the poor quality of the provision is preventing the space serving local people. The size of units proposed would appeal to families and given the proximity of the application site to these open spaces it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. Clarification of the need and what the monies will be spent towards has been sought from the Head of Corporate and Scrutiny Services (Green Spaces) and accordingly will be reported and appraised and reported as a late item. Providing there is a strategy on which to spend contributions it is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance.

### Sustainability

Policy 24 of the Core Strategy requires new residential dwellings in Hinckley to be built to Code 3 of the Code for Sustainable Homes. Detail of how this will be achieved will be required by a condition.

## Other Issues

Objections have been received on the basis that the ground has been maintained over a number of years by the residents, however in the absence of any definitive documentation on the ownership of the land to the contrary, this is not a material planning consideration. Other objections refer to the loss of open space and impact on wildlife. The application site is in private ownership and has no development plan or other designation, therefore there is no principle objection to its loss. The proposal would not result or affect any designated wildlife sites or is considered to be a habitat for protected species. There are no wildlife grounds on which to refuse the application on. One objection has been received objecting to the address of the site. This is not a material planning consideration and the site is clearly shown on the site location plan.

## Conclusion

Policy RES5 permits residential development within the settlement boundary. Policy BE1 considers the siting, design and effect on amenities. The principle of the proposal is acceptable and the proposed design and appearance of the dwelling are considered to be in keeping with the surrounding development and would not detrimentally affect the amenities of neighbouring residents. The proposal is therefore considered to be acceptable.

**RECOMMENDATION:- That subject to the receipt of an acceptable Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide financial contributions towards off site play and open space the Head of Planning shall be granted delegated powers to granted planning permission subject to the conditions below. Failure to complete the said agreement by 7 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 the proposed siting and design of the detached dwelling is considered not to detrimentally affect the character or appearance of the streetscene, or amenities of neighbouring properties, the proposal is considered acceptable.

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

Hinckley and Bosworth Borough Council Local Plan (2001) :- Policies IMP1, RES5, BE1, T5 and REC2.

- 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: M1239/2a, /3b, /4. /5a, /6 received 13 December 2011 and M1239/1c received 19 January 2012.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.



- 4 Before first occupation of the dwelling hereby permitted, its access drive shall be surfaced with a hard bound porous material (not loose aggregate) and shall be so maintained at all times.
- 5 No development shall commence unless and until a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the 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 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 5 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This 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.

**Contact Officer:-** Sarah Fryer Ext 5682

**Item:** 07

**Reference:** 11/00946/FUL

**Applicant:** Punch Partnerships (PTL) And Midland Assured Consultancy

**Location:** The New Galaxy 67 Boyslade Road Burbage

**Proposal:** CHANGE OF USE FROM PUBLIC HOUSE TO CONVENIENCE STORE AND ERECTION OF SINGLE STOREY EXTENSION

**Target Date:** 14 February 2012

**Introduction:-**

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

Application Proposal

This application is for the change of use of the Galaxy Public House (Use Class A4) to a local convenience store (Use Class A1), along with a rear extension and alterations.

The retail area totals 270.35 sq.m with a back house area of 173.37 sq.m. Two thirds of the backhouse area is to be contained within the proposed extension. The existing building is to be remodelled. The main shop entrance will be on the northern elevation. The existing porch is to be removed and the existing single storey flat roof element is to be retained and rendered. The shop front will be of plate glass.

The two storey red brick pitched roof structure is to be retained, and its openings bricked up. A single storey flat roof extension is proposed to the rear (south) of the building. This is to be finished in brick to match that of the existing building. A single opening, (door) is proposed in the western elevation. The extension will have a footprint measuring 3.5 metres x 25.5 metres and a maximum height of 3.5 metres. The rear service area is to be enclosed by a new palisade fence.

The existing 20 parking spaces are to be retained, with two being designated as disabled and two as mother and baby spaces. The access on to Tilton Road is to be widened to accommodate service vehicles.

Due to officer concerns in respect of the design of certain elements of the proposal amended plans have been requested and received. Due to the minor nature of the changes, no further public consultation has been undertaken.

It should be noted that the change of use from public house (class A4) to retail unit (A1) would constitute a permitted change for which express planning consent would not be required by virtue of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010. In this present application the application for consideration applies for extensions and alterations to the existing building and the permitted development rights do not apply, however consideration must be had of the permitted development rights as the change can be undertaken independently of the additional works.

### The Site and Surrounding Area

The application site is situated within the Boyslade Road local shopping centre, which comprises the parade of shops fronting Boyslade Road and turning the corner into Tilton Road. The application site is on the corner of Boyslade Road and Tilton Road. On the eastern side of Boyslade Road and on the corner of Twycross Road is a car sales and garage. To the north of Tilton Road is a Church and a doctor's surgery. To the south of the site is a private access road serving garages to the rear of properties on Darley Road. Otherwise, the site is surrounded by residential development.

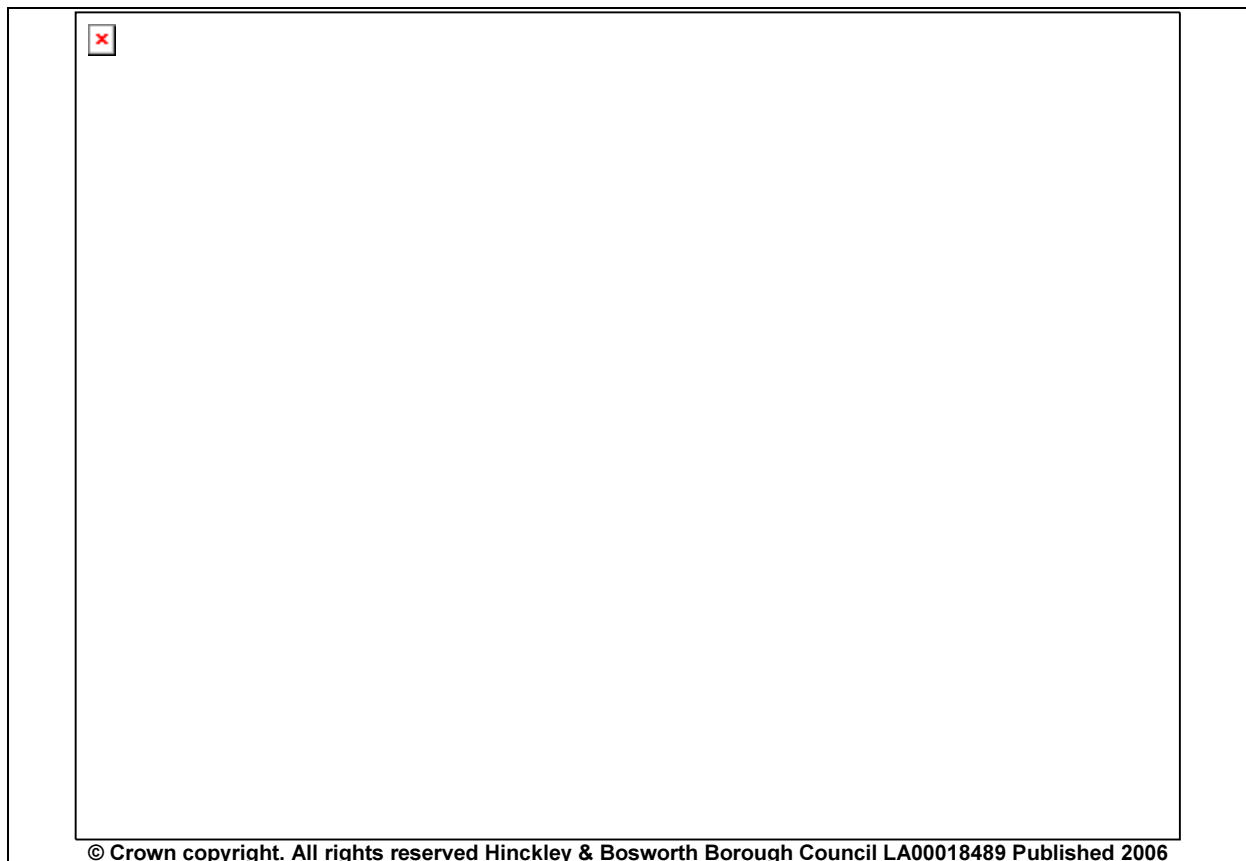
Currently the site consists of the New Galaxy Public House (which is now closed), situated towards the rear of the site, with approximately 20 parking spaces to the front. There are two access points for the site, one off Tilton Road for service vehicles and the other off Boyslade Road. The site is hard-surfaced, aside from a small area of grass to the rear. A row of bollards delineates the site boundaries to the north and east, with close boarded fencing to the remaining boundaries.

### Technical Documents submitted with application

Planning Statement  
Transport Statement  
Energy Statement  
Noise Impact Report  
Retail Assessment

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

None relevant.



## **Consultations:-**

No objection has been received from Head of Community Services (Land Drainage).

No objection subject to conditions have been received from:-

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

Site notice and Press notice were displayed and neighbours notified.

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

- a) the pub provides a facility for both young and old – loss of amenity
- b) the existing shop is adequate to serve the local area
- c) objections to the widening of Tilton Road
- d) concerns about HGV traffic - add further pressure to junction
- e) proposal will exacerbate existing parking and traffic issues
- f) local community will not be able to afford the prices of the new store
- g) noise and pollution caused by delivery vehicles
- h) the boundary treatment proposed will encroach into private land
- i) will have an adverse impact on community spirit
- j) will have an adverse impact on the social lives of Senior Citizens
- k) poor design.

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

Western Power Distribution  
Leicestershire Fire and Rescue Services  
CAMRA  
The Leicestershire Constabulary Crime Reduction Officer  
Burbage Parish Council.

## **Policy:-**

### National 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.

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.

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

Planning Policy Statement 4: Planning for Sustainable Economic Growth sets out the Government's national policies for economic development which includes employment, retail and community development. The Statement sets out the overarching objective of securing sustainable economic growth. Policy EC2 seeks to make the most efficient use of previously developed land and encourages new uses for vacant buildings.

Planning Policy Guidance Note 13: Transport sets out national transport planning policy. It seeks to provide sustainable transport choice, improve accessibility and reduce the need to travel by car. Local Planning Authorities are encouraged to maximise the use of accessible sites that are either in town centres or close to transport interchanges. The guidance advises on retail and leisure developments suggesting that such development should be concentrated in centres. 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'.

### 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 Area 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 18 recognises the importance of raising skills, developing the service sectors and high value manufacturing and creating innovative businesses to ensure the region is better positioned to maintain economic competitiveness.

#### Local Development Framework Core Strategy 2009

Policy 1: Development in Burbage seeks to ensure that there are a range of employment opportunities, supports the provision of additional retail floor space within the defined Burbage Local centre and additional parking to enable residents to shop close to home. Requires transport improvements in line with Policy 5 and environmental improvements in line with Policy 24.

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 provision and management of car parking and public transport to increase the increased use of Hinckley town centre.

#### Hinckley and Bosworth Local Plan 2001

The site is located within the settlement boundary of Burbage and within the retail area as defined in the adopted Local Plan.

Policy BE1: 'Design and Siting of Development' states that development should: complement or enhance the character of the surrounding area; have regard to the safety and security of individuals and property; have regard to the needs of people with disabilities or limited mobility where access is to be available to the general public; ensure adequate highway visibility and adequate provision of off-street parking and manoeuvring facilities for staff and visitors; not be adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; not adversely affect the occupiers of neighbouring properties.

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 Retail 7: 'Local shopping Centres' states that outside Hinckley Town Centre planning permission will be granted for retail development to serve the local community in the following local shopping centres , as defined on the proposals map:- Burbage, Boyslade Road/Far Lash, provided that the development does not have an adverse impact on residential amenity and the character of the area, is acceptable in terms of highway safety and provides an acceptable level of on site parking and servicing facilities.

#### Supplementary Planning Guidance/Documents

Burbage Village Design Statement provides general design guidance for new development within Burbage. The application site is within Zone 4, as designated by the Design Statement. GN2: Design Principles states that Conversions and alterations should use materials and be of a design and scale compatible with original buildings. GN7: Designing Out Crime states that developers should demonstrate that they have considered and incorporated appropriate anti-crime design features and proposals for retail development should consider incorporating CCTV. Proposals for shop frontages and retail signage should be in keeping and not obtrusive. Where possible and practicable, additional provision should be made for disabled, cycle and motorcycle parking.

#### Other Material Policy Guidance

None relevant.

#### **Appraisal:-**

The main considerations in the determination of this application are the principle of development; design and character, residential amenity; highway issues and other matters.

#### Principle

The application site lies within the settlement boundary of Burbage as defined by the Hinckley and Bosworth Local Plan and within the designated Local Shopping Centre. Accordingly there is a presumption in favour of retail development subject to the application being considered acceptable on other planning grounds and in principle, the development proposed is considered acceptable.

#### Character and Design

The site is situated within a predominantly residential area comprising of two storey, brick built dwellings of simplistic, pitched roofed design. Immediately opposite the site (to the west) is a three storey building providing a promenade of shops at ground floor, with flats above. The shop fronts are of modern design and feature a range of design and colours. The building under consideration has a pitched roof, with a single storey, flat roof 'L' shaped extension to the north and east. A wooden veranda, providing a covered seating area, projects from the flat roofed extension. The building has limited architectural detail and is of a simplistic design. The extension proposed comprises a brick built flat roofed structure and will span the width of the rear (southern elevation) of the building. Although its design is simplistic and has limited detail, it will be largely screened by the existing building, only its eastern elevation, which comprise a 5.7 metre expanse of brickwork will be visible from Boyslade Road. Despite the uninspiring design of this, given the existing, simplistic design of the proposal, the extension under consideration is not considered to result in any further adverse impacts in terms of visual amenity, or on the character of the street scene.

A number of elevational changes have also been proposed. The first floor windows are to be blocked up and the chimney is to be removed. Officers had initial concerns in respect of the materials to be used for the window infill. Accordingly further details were requested. The amended details illustrate that the infill is to be rendered. The solution proposed is considered acceptable. The new shop front will be largely glazed which will modernise the appearance of the building.

An external ATM machine has also been illustrated on the front elevation adjacent to the main entrance. This is not considered to compromise the design or character of the building.

Anti ram raid bollards are also proposed for the length of the shop frontage. Following design concerns in respect of their finish, further details of their construction was requested and confirms that they will be 1 metre in height, finished in black or grey with a white reflective band around the top. Although the bollards will result in a militant feel in this residential area, they are required for security purposes and thus this need constitutes an overriding factor.

For similar reasons to the inclusion of bollards, external roller shutters were initially proposed. The Council does not encourage the use of these as they result in 'dead' frontages which are considered detrimental to the character of an area. Accordingly, these have been omitted from the design.

Finally a 2.5 metre high Palisade fence is proposed on the southern boundary, opposite the extension. This will continue along the western elevation for approximately 9 metres. At this point, gates of a similar construction and design are proposed to enclose the service yard to the rear. The gates will be the only element of the above visible from the street scene, however by virtue of their set back from the edge of the highway (approximately 30 metres) they are not considered detrimental in terms of their impacts on the street scene or character of the area. Notwithstanding this however, it is considered necessary to impose a condition requiring details of their finish and colour to be submitted to and agreed in writing by the Local Planning Authority.

Whilst the application contains details as to signage, with a proposed 700mm deep 'signage zone' and inclusion of indicative details of further signage, specific details have not yet been provided. Thus the acceptability of the signage will not be considered as part of this application.

In summary, although the design of the proposal is simplistic and has little in the way of architectural detail, given the existing design of the building and the functional requirements of the retail facility, on balance the proposed design is considered acceptable and is not considered to result in any further detrimental impacts in terms of visual amenity or on the character of the street scene.

### Residential Amenity

As explained above, if the application were solely for a change of use, planning permission would not be required, as the change proposed would be general permitted development, as outlined above. Part of the reasoning behind this central government legislation is that a retail unit is considered to have less significant impacts on the residential amenity of surrounding properties, in terms of noise and disruption, than would a Public House. Notwithstanding this however, as this application is also applying for extensions and alterations, the permitted development rights do not apply, and thus potential impacts of the use of the building as a retail unit will be considered.

In terms of noise and disturbance, by virtue of the existing use of the building as a public house, there is already an associated level of such. As this application proposes use of the



building as a retail unit, the potential impact on the residential amenity of surrounding properties is considered less. The use of public houses is predominantly during unsocial hours, and socialising activities are not restricted to internal areas. Accordingly noise and disturbance associated with vehicle movements throughout the evening, and from users of the facility socialising externally will be greater, than similar activities associated with the use of the building as a retail unit.

In terms of commercial vehicle movements, both uses (public house and retail) would necessitate deliveries from such, accordingly on balance the associated noise and disturbance is considered no worse than at present and therefore there are considered no material impacts in this respect, on the residential amenity of surrounding properties.

The Head of Community Services (Pollution) has recommended that a condition be imposed that requires the submission of a scheme for the protection of nearby dwellings from noise from the proposed development. However, as explained above, impacts on residential amenity are considered to be reduced by virtue of the use proposed and therefore the suggested condition is not considered necessary and would not meet the tests outlined within Circular 10/95.

In terms of the proposed extension, this will be to the rear of the building, adjacent to the southern boundary of the site. The nearest residential properties are those on Darley Road, and number 1 Tilton Road. In terms of impacts on those properties to the south, these will be limited as the dwellings are separated by a private service road, outbuilding and long rear gardens. The dwelling most affected will be number 1 Tilton Road. The access adjacent to the front boundary of this property is to be widened to more easily accommodate service vehicles, which will travel along the western boundary (adjacent to number 1) to the rear service yard. Although this proposal may result in a slightly more intensive use of this access by service vehicles, the access is existing, and thus the resultant level of noise and disturbance is not considered to be material and therefore would not warrant refusal of the application.

Based on the above the proposal is not considered to result in any material impact upon residential amenity and is therefore considered compliant with the intentions of Policy BE1 of the adopted Local Plan.

### Highways

To encourage alternative, more sustainable modes of transport, in line with local plan policy T5, the Director of Environment and Transport (Highways) has suggested a condition requiring the provision for cycle parking to be provided. The suggested condition will be imposed.

### Other Issues

#### Economy

Concerns have been raised that the existing community is already adequately served by retail facilities. Commercial need and potential competition between existing and proposed uses are not material planning considerations. However, supporting information has been submitted with the application stating that the proposal will bring back into use an existing derelict premises and will provide between 20-25 local jobs. Accordingly, the proposal is considered to be in accordance with the intentions of Planning Policy Statement 4 and the latest Ministerial Statement on the Economy.

## Consultation Responses

Concerns not addressed elsewhere in the report will be considered below.

Concerns have been raised that the public house provides a local amenity and contributes positively to the community. The Public House in question has been closed down as it has been suggested that it is not a viable enterprise. As this is a private facility the Local Planning Authority have no control over its continued use as a public house.

Concerns have been raised over the widening of Tilton Road. For clarification, Tilton Road is not to be widened by this application. The existing vehicular access from the site onto Tilton Road is however to be widened, to better accommodate service vehicles.

It has been stated that the proposal will exacerbate existing parking and traffic issues however the Director of Environment and Transport (Highways) has not raised any objections and thus the proposal is not considered to result in unacceptable highway issues.

Concerns have been raised that the local community will not be able to afford the prices of the new store. This is not a material planning consideration.

Concerns have been raised in respect of the proposed boundary fencing. This is required for security purposes. Further details in respect of its finish have been requested to ensure its appearance is suitable.

## Conclusion

As the application proposes a retail use and is situated within the designated retail area, in principle the development is considered acceptable. In terms of the proposed extension, although this is of a simplistic design, which does not contribute positively to the character of the existing building, given the design of the existing building, which in itself has limited detail and a wrap around flat roofed extension, the proposal will have no further adverse impacts on the character of the building. Further, due to the extensions siting to the rear of the proposal, it will be largely screened from the street scene, and thus is not considered to have any adverse impacts in terms of visual amenity or on the character of the street scene. The minor elevational alterations are not considered to have a detrimental impact on the character of the building and the amended details are considered acceptable. As the accesses to the site and the parking provision are to remain as existing, there are no objections to the proposal on grounds of highway safety. In terms of residential amenity, impacts of the proposed use are considered no more than at present, and thus associated impacts would not warrant refusal of the application. Therefore the proposal is considered to be in accordance with policies BE1, RETAIL 7, T5 and T9 of the adopted Local Plan and Policy 1 and Policy 5 of the adopted Core Strategy.

**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 design, siting and scale of the proposal there are considered to be no material impactation in terms of visual or residential amenity, the character of the street scene or highway safety. Therefore the proposal is considered acceptable.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policies 1 and 5.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies BE1, RETAIL 7, T5 and T9.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 2664-102 rev D; 2644-103 rev C received by the Local Planning Authority on the 17 January 2012 and the email received from the agent dated 16 January 2012 containing details of the anti- ram raid bollards and the window infill.
- 3 The materials to be used on the external elevations of the proposed extension shall match the corresponding materials of the existing building unless previously agreed in writing with the Local Planning Authority.
- 4 Notwithstanding the details provided, prior to commencement details of the finish and colour of the proposed palisade fence shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 5 Before the development hereby permitted is first used, cycle parking provision shall be made to the specification of the Local Planning Authority and once provided shall be maintained and kept available for use thereafter.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 In the interests of visual amenity and the character of the area. To comply with the intentions of Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 5 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.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 For clarification, this application does not provide consent for the illustrated signage. A separate application for advertisement consent will be required for all signage. It is a criminal offence to display signage without first obtaining the required consent.

**Contact Officer:-** Eleanor Shaw Ext 5680

**Item:** 08

**Reference:** 11/00977/FUL

**Applicant:** Mr Jim Bennett

**Location:** 7 Kerry Close Barwell

**Proposal:** EXTENSIONS AND ALTERATIONS TO DWELLING.

**Target Date:** 28 February 2012

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as a member has requested it be determined at committee.

Application Proposal

This application seeks full planning permission for a single storey extension comprising a lounge extension and double garage to 7 Kerry Close, Barwell. The extension has two linked elements. The lounge element will be linked to the existing dwelling by a narrow passageway and a covered area would be located in-front of the passageway to provide natural ventilation to the bathroom window to the side of the property. The garage element is attached to the proposed lounge and is larger, projecting further forward of the proposed lounge and being deeper to the rear. The extensions are single storey in scale. In total the extension extends 12.7m to the north elevation with a ridge height of 3.7m above the lounge rising to 4.1m above the garage.

Additional information has been submitted showing how the proposed garages are to be accessed and the correct line of the boundary fence. This shows the existing single flat roofed garage to be demolished and a turning area within the rear garden area. No re-consultation has taken place as the plan was for information only and the scheme has not been altered.

### The Site and Surrounding Area

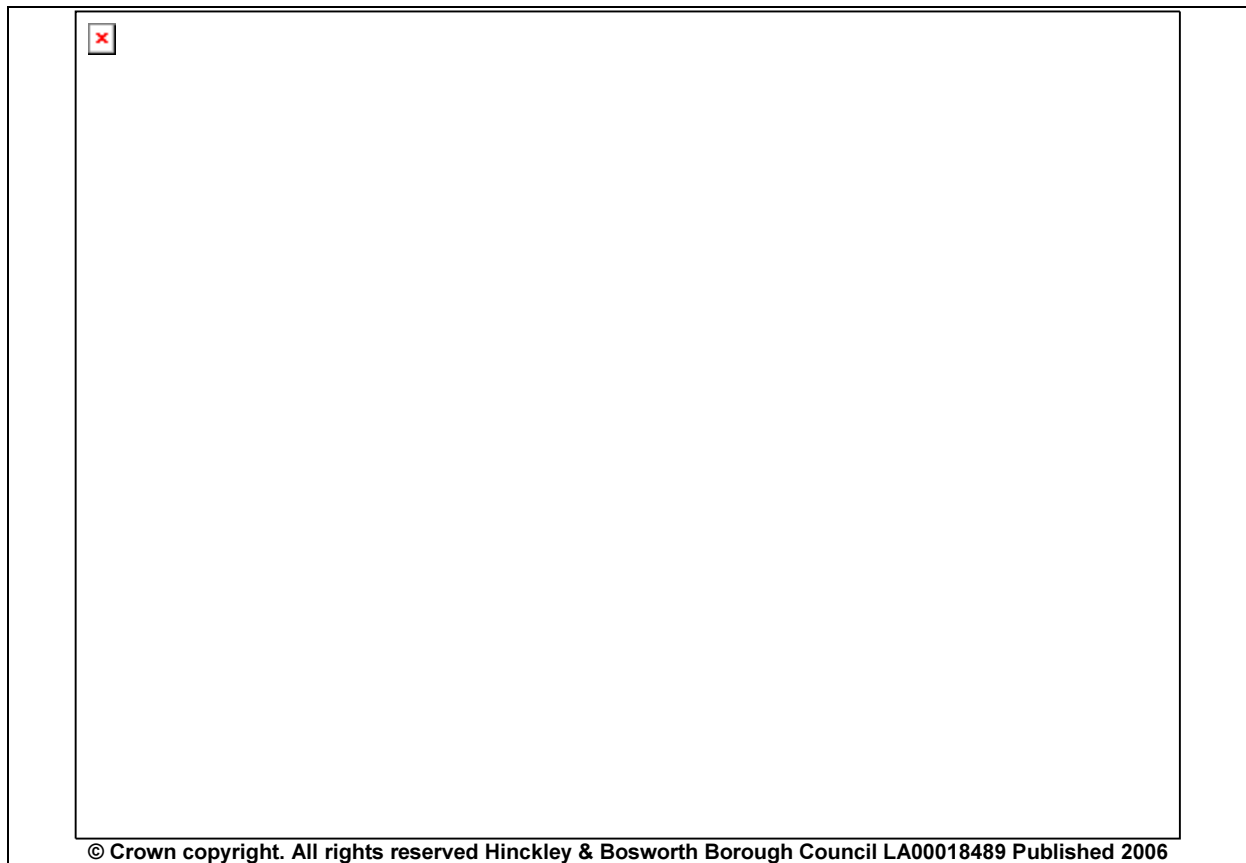
7 Kerry Close is a semi-detached bungalow located within a residential estate that contains a mix of single storey and two storey dwellings. The application site is a corner plot with two storey, semi-detached dwellings to the front and rear, and semi-detached bungalows to the north. The application property has pedestrian access to the front with a single detached garage and off street parking space to the rear. The site is surrounded by a 1.8m timber close boarded fence, with a slightly higher conifer hedge within the curtilage.

### Technical Documents Submitted with the Application

None.

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

None relevant.



### **Consultations:-**

No objection has been received from the Head of Community Services (Land Drainage).

One letter of objection has been received raising the following concerns:-

- a) proposed extension and garage cover a greater area than existing property.
- b) two mature trees were felled before Christmas and work has therefore started.
- c) alter the streetscene and character of the street
- d) overbearing

- e) the existing entrance to the rear side of the property will need to be moved and existing garage demolished to allow access.

At the time of writing the report no response has been received from Barwell Parish Council.

## **Policy:-**

### National 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.

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

None relevant.

#### Local Development Framework Core Strategy 2009

None relevant.

#### Hinckley and Bosworth Local Plan 2001

Policy BE1 considers the design and siting of development and supports development where the development would compliment or enhance the character of the area with regard to scale, layout, mass and design.

#### Supplementary Planning Guidance/Documents

House Extensions - provides guidance on the design and appearance of residential extensions including that an extension should reflect the scale and character of the existing dwelling and streetscene and not overwhelm the existing house or neighbouring property.

#### **Appraisal:-**

The main considerations with regards to this application are the principle of development, the design and appearance of the proposed extension and effect of the proposal on amenities of neighbouring residents.

#### Principle of Development

The site is located within the settlement boundary of Barwell where the principle of development is supported subject to the proposal complying with all other relevant polices of the plan.

#### Design and Appearance

Policy BE1, supported by SPG on House Extensions, sets out the design policy that new development is assessed against. Amongst other matters, this Policy requires new development to have regard to the scale and layout of existing development to ensure that new development complements the area. The SPG goes into more detail stating that the extension should be subordinate in scale to maintain visual harmony and giving examples through which this can be achieved.

The area consists of modest properties, and the application property a small originally 2 bedroomed bungalow. The proposal is to extend over 12.7 m to the north, resulting in an extension that triples the width of the dwelling. The SPG specifically recommends that to avoid being visually intrusive extensions should not exceed half the width of the original property. The siting and form of the extension is at odds to that of the existing dwelling and other development within the area. It is considered that due to its excessive width the proposal would be out of scale resulting in overbearing development on the existing dwelling.

The proposed eastern elevation of the extension would consist of a plain brick elevation not broken by any openings. Notwithstanding the existing boundary treatments, incorporating a

1.8m timber close boarded fence enclosing a slightly higher conifer hedge, surrounding the site, the lack of fenestration is contrary to the objectives of Policy BE1 and the SPG. The proposed fence does not benefit from planning permission and the hedge behind is not subject to any formal protection. Accordingly, should the fence and or hedge be removed the bland mass of the extension will dominate the streetscene.

Notwithstanding, the presence of the boundary fence and hedge, whilst the proposal would be set back from the front elevation, it is considered that the excessive width, poor design and orientation of the proposal results in development out of character and scale with the main dwelling and surrounding properties. The extension is therefore considered to be contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan supported by guidance contained within SPG on house extensions.

### Impact on Neighbours

The nearest neighbours, number 51 Kerry Close are located approximately 15m from the proposed extension to the north. Other properties numbers 16 and 18, and 11 and 13 Kerry Close are located over 20m to the east and west respectively. As the proposal is of single storey scale, it would not be overbearing or result in any overlooking from neighbouring dwellings. It is therefore considered that the proposal would not detrimentally affect the amenities currently enjoyed by the neighbouring residents.

### Other issues

Objections have been submitted on the grounds that works have already started as two mature trees have been removed from site. Whilst trees can be protected by Tree Preservation Orders or if they are within a Conservation Area, neither of these designations apply to this site and the trees could therefore be removed without any consent.

The proposal would utilise an existing access from the highway and would provide ample parking for the size of the dwelling. There are no objections on highway safety grounds.

### Conclusion

It is considered that the proposal by virtue of the size, siting and scale of the extension would be out of character with the existing dwelling and character of the area. It is therefore considered that the application is contrary to Policy BE1 and SPG on House Extensions.

**RECOMMENDATION:- REFUSE, for the following reason:-**

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

#### **Reason:-**

- 1 In the opinion of the Local Planning Authority the proposed extension by virtue of its scale, mass, design and siting, is an inappropriate extension to this modest and prominently located bungalow. The proposed development will appear as an incongruous and visually prominent extension and will have an adverse effect on the appearance and character of both the existing dwelling and the streetscene and is therefore contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan and the Council's Adopted Supplementary Planning Guidance on House Extensions.

**Contact Officer:-** Sarah Fryer Ext 5682