

PLANNING COMMITTEE

APPLICATIONS FOR DEVELOPMENT

APPLICATIONS FOR DETERMINATION BY COMMITTEE

13/00102/FUL
KIBWORTH BEAUCHAMP
BH Kibworth LLP

Erection of 13 dwellings and associated garages, parking and landscaping - Land Rear Of 8-28, High Street, Kibworth Beauchamp, Leicestershire

Target Date: 06/05/13

Recommendation

APPROVE subject to a suitable legal agreement and conditions for the following reason:

This infill development will provide a good mix of housing, (including securing special needs housing) and is accessible to public transport, community facilities and services. The development by virtue of its scale, design and appearance is considered to reflect the surrounding built form without adversely affecting neighbouring amenity or the setting of adjacent heritage assets. Furthermore, the development will not be detrimental to highway safety. The development therefore complies with policy CS3, CS11 and CS17 of the Harborough District Core Strategy and the NPPF. This decision takes account of Paragraphs 186 and 187 of the Framework.

Site & Surroundings

The site comprises the rear gardens of Cross Bank House (14), 22 and 26 High Street with access from Weir Road. The site is close to the centre of Kibworth, with residential properties on the southern, northern and eastern boundaries. The site is within the Limits to Development and Conservation Area of Kibworth.

Proposal

This application essentially proposes a revised scheme of the market housing element of planning approval 11/01446/FUL. 13 Dwellings are proposed, a mix of detached, semi-detached and terraced houses with 1 and a half storey, 2 storey and 2 and a half storey designs. The site for approved scheme 11/01446/FUL also includes the area shown in blue on the submitted location plan (for the application being considered), this being the location of the approved flats which made up the affordable housing. The applicant for this application proposes that the flats continue to provide the affordable housing in relation to this development and proposes that this be secured by legal agreement.

The applicant has also submitted a range of detailed plans including window detailing and landscaping in an attempt to reduce the number of planning conditions which would be required if the application is approved.

In response to officer concerns, the applicant has submitted amended plans (amendment A) received 11/04/13 which alter the design and position of plots 11 and 12 and omit a garage serving plots 8 and 9.

Consultations

Please note the following responses are a summary of the comments received, to view the comments in full, please refer to planning file.

Water Authority:

Recommend condition to agree surface water strategy.

Leicestershire County Council Highway Authority

Confirm comments as per 11/01446/FUL:

The Highway Authority are aware of local concerns in relation to traffic generation associated with the proposal and existing and future concerns about on street parking along Weir Road.

Notwithstanding the aforementioned, the submitted transport statement indicated that the proposal if permitted will be unlikely to result in any significant increase in turning traffic at the access and therefore using Weir Road. The TRICS database informed the before and after traffic generation analysis and showed that there would be a likely decrease in AM peak traffic movements and a likely small increase in the PM Peak. Overall traffic generation would be likely to increase by 4.5% on an average day.

The vehicular access is to be substantially improved in terms of radii and on balance this should mitigate against the additional use of the access. The transport statement acknowledges that the existing visibility to the south of the access can be obstructed at times by parked vehicles. This was also witnessed on my site visit and is also displayed on google earth. The Highway Authority recommend and if the L.P.A are so minded then an obligation requiring the applicant to endeavour to secure a traffic regulation order to restrict on street parking across the sites frontage (which will in turn protect visibility to the south of the access) should be introduced into any S106 agreement.

On balance, as the access is being improved and as the proposal if permitted should only give rise to a small increase in vehicular movements, then the H.A considers it is not in a position to seek to resist this proposal.

In order to mitigate the impacts of the development on the highway network, a traffic regulation order should be sought to the south of the site's vehicular access to control on street car parking. A scheme will need identifying and submitting for approval prior to development commencing. All costs with regards to the design and implementation of the T.R.O shall be entirely at the applicants expense.

Leicestershire County Council Archaeology

Confirm comments as per 11/01446/FUL:

The Leicestershire and Rutland Historic Environment Record (HER) shows that the application site lies within an area of archaeological interest. As confirmed by the submitted Archaeological Desk-Based Assessment, the site is situated within the medieval and post-medieval settlement core of Kibworth Beauchamp, close to a

number of early buildings including the Grade II Listed Manor House, which dates to the 16th-17th century. The site of the medieval market is thought to have been The Bank, c.60m to the north of the application site, which would have been a focus for activity, and finds of prehistoric, Roman, Anglo-Saxon, medieval and post-medieval date have been recorded in the vicinity. Consequently, there is a likelihood that buried archaeological remains will be affected by the development. However, the nature and significance of any archaeological remains present on the site is not currently fully understood.

Proposals set out in the submitted Heritage Statement to retain the traditional brick walls within the site and the mud wall forming the western boundary are welcomed. However, we would recommend that the Conservation Officer is consulted on the visual impact of the proposals on the nearby Listed Buildings as well as undesignated heritage assets such as the former hosiery buildings to the rear of 22 High Street.

The preservation of archaeological remains is, of course, a “material consideration” in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, we recommend that the planning authority defer determination of the application and request that the applicant complete an Archaeological Impact Assessment of the proposals.

This will require provision by the applicant for a field evaluation by appropriate techniques including trial trenching. This will identify and locate any archaeological remains of significance and enable the preparation of a suitable mitigation strategy to avoid or minimise damage to those remains as a result of the development. Further design, civil engineering or archaeological work may then be necessary to achieve this.

This information should be submitted to the planning authority before any decision on the planning application is taken, so that an informed decision can be made, and the application refused or modified in the light of the results as appropriate. Without the information that such an evaluation would provide, it would be difficult in our view for the planning authority to assess the archaeological impact of the proposals.

Leicestershire County Council Ecology

The previous application on this site was accompanied by two ecological surveys completed by RSK Carter, one in February 2011 and one in July 2011. Only the February report appears to have been submitted in support of the current application. Provided that the July 2011 report can also be added to this file, we have no objection to the development. My comments below are based on the assumption that both reports are added.

We note from the reports that no protected species were discovered, but that the site was considered to have potential to support common species. We would therefore recommend that consideration is given to planting the area to the north of the access road with native species, to ensure that there is some continuation of the habitats impacted.

In addition we would recommend that the applicant's attention is drawn to the recommendations in the ecological reports.

LCC Tree Officer

T1149 is likely to be affected by the creation of the access drive and car standing on two sides of the tree, presumably within the RPA of a recommended 3.6m radius; it's almost always a disadvantage for the tree when more than one side of the rooting area is disturbed;

T1157 (an off-site private tree) is likely to be affected by the construction of the car port and its associated hard surface inside it, both well within the RPA of 7.2m radius. The developer owes a duty of care to his neighbour (the tree owner) to ensure that his work does not damage his property, i.e. the tree.

It may well be possible to construct these features without deep excavation, on top of existing levels by using a 'no-dig' method such as Cellweb or similar, thereby avoiding the root damage which would otherwise inevitably occur. However, there may be implications for road surface levels and the relationship with damp-proof courses of nearby buildings. I would recommend asking the developer to describe how he intends to do this work without affecting the trees.

Harborough District Council Conservation

Revised comment on receipt of additional information: Proposal acceptable subject to condition to ensure protection of the mud wall.

Harborough District Council Drainage

A drainage Condition should be applied to this application

Harborough District Council Contaminated Land Officer

No comments

HDC Housing Manager

We agreed for 9 supported living apartments (with Self unlimited – Care Shangton) to being provided at Weir Road. The design and access statement 2.1 submitted with application states the parameters for abiding by existing S106 and affordable delivery for the 9 apartments. We must double check that the original planning consent was explicit in ensuring delivery of affordable units at the front end of this development commencing.

Kibworth Beauchamp Parish Council

Echo concerns of residents of 54-59 Morrison Court who will be adversely affected by the development.

Section 106 Consultations

Leicestershire County Council

LCC provide justifications for index linked contributions towards library facilities and education (primary and upper school). Please see file for full justifications.

Housing Strategy Manager

40% affordable housing required in this location

Harborough District Council Green Spaces Officer

None received

Leicestershire Constabulary

None received

Leicester, Leicestershire & Rutland Primary Care Trust

None received

Representations

Please note the following representations are a summary of the comments received, to view the comments in full, please refer to planning file.

Objections have been received on behalf of 9 households (including a letter of objection on behalf of 6 households on Morrison Court). Concerns raised include:

- Concerns over the impact on residential amenity (loss of light and privacy to bungalows at Morrison Court.
- Water table – excess surface water must be considered due to the difference in levels between the site and Morrison court.
- Affordable housing should be secured so that it is built before the rest of the site is developed
- Inadequate parking. Rear communal parking courts do not work in practice. Less parking than previous scheme. People do not use garages for parking
- Site includes land in the ownership of 4/6 High Street. Applicant has not served the necessary notice. Potential for judicial review.

Further correspondence received on behalf of previous objector (54 Morrison Court) suggesting not all concerns have been addressed.

Information

This application was deferred at the last Committee to allow re-consultation to be carried out on revised plans. Those residents on Morrison Court adjoining the site, previous objectors to this application and the Parish Council have been re-consulted on the amended plans. The consultation period will finish 09.05.13.

Policy

NPPF (“the Framework”)
Planning for Growth (March 2011)

Core Strategy, adopted November 2011

Policy CS1: Spatial Strategy

Policy CS2: Delivering New Housing

Policy CS3: Delivering Housing Choice & Affordability

Policy CS5: Providing Sustainable Transport

Policy CS11: Promoting Design & Built Heritage

Policy CS12: Delivering Development & Supporting Infrastructure

Policy CS17: Countryside, Rural centres and Rural Villages

Harborough District Local Plan, adopted April 2001

The retained policy of relevance is:

Policy HS/8: Limits to Development

Local Plan for Harborough District (including APPENDIX B Review of Core Strategy: NPPF Compatibility (3rd December Council 2012))

Supplementary Planning Guidance

SPG Note 1 – Design Principles to be applied in Harborough District

SPG Note 2: Residential Development – Major Housing Sites

SPG Note 9: Landscape & New Development

SPG Note 10: Trees & Development

SPG Note 11: Hedges & Development

SPG Note 13: Crime Prevention & Reduction

SPG Note 16: Requirements for the provision of land for outdoor play space in new residential developments

SPG Note 20: Monitoring of Housing Land

SPD Affordable Housing (adopted February 2006).

Planning Obligations Developer Guidance Note (September 2009)

This adopted document sets out the Council policy for securing Section 106 contributions

Kibworth Parish Plan 2004

Other Information

Recent Planning History

11/01446/FUL - Erection of 13 dwellings and associated garages, parking and landscaping (permitted)

EIA Development

This application is not an EIA development in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Reason for Planning Committee Meeting

This application is being reported to the Planning Committee for determination because the application proposes more than ten dwellings.

Planning Considerations:

Principle of Development

The principle of the development is considered to be established by the planning approval 11/01446/FUL. This application does not propose to alter the number of dwellings for this part of the overall site. Although Kibworth is not a focus for new development (Core Strategy Policy 17) the policy does not preclude limited infill development within currently defined limits to development. The site is within the defined limits to development and the scale of the development would not be

considered to undermine wider policy objectives. The site is not previously developed land, as it is garden land. Development of garden land, whilst not a priority, is allowable subject to compliance with the relevant policies and material considerations.

Impact on Heritage Assets

The site lies within a Conservation Area and is adjacent to several listed buildings. Furthermore, the site is close the historic core of the village, where archaeological remains may be present.

Conservation Area

The application site falls within the Conservation Area of Kibworth Beauchamp (designated in 1982). However, the site is not publically available and views into the site are restricted. Furthermore there is built development on three sides of the site, the site can not therefore be considered as contributing significantly to the form and character of the village. In addition the properties on High Street will still be provided with ample garden space to serve each dwelling.

Listed Buildings

There are five Grade II Listed Buildings bordering the application site. 4 High Street, Cross Bank House and 22 High Street are situated to the north of the site; and parts of the site fall within the grounds to the rear of the latter two properties. The Manor House falls to the west and upon its most easterly extent the 2 cottages of 10 Weir Road sit opposite the site.

The properties to the north of the site are still positioned within substantial grounds suitable to their setting. It is not considered the setting of the cottages at 10 Weir Road would be adversely affected.

The site contains traditional brick walls and a mud wall to the west boundary. The Conservation officer is satisfied with the proposal subject to a condition to protect the mud wall.

Archaeology

As confirmed by the submitted Archaeological Desk-Based Assessment, the site is situated within the medieval and post-medieval settlement core of Kibworth Beauchamp, close to a number of early buildings including the Grade II Listed Manor House, which dates to the 16th-17th century. The Assessment concludes that *'any archaeological remains anticipated to be present within the site are not sufficiently important to prevent development or to constrain new building work'*

The County Archaeologist has requested an Archaeological Impact Assessment which would include a geophysical survey and/or trial trenching prior to determination of the application. However the approved scheme deals with this issue by planning condition as this was considered reasonable by the LPA based on information submitted. It is therefore recommended that the same approach would be appropriate for this scheme.

Affordable Housing

Policy CS3 explains how the Council will secure the delivery of affordable housing in all residential developments. The application site falls within the sub-market area Harborough Rural North and Central. As such the Council will seek a minimum of 40% of the total number of dwellings to be affordable.

The applicant proposes that the 9, 1 bedroom flats approved adjacent to this proposed development form the affordable dwellings for this scheme. The flats form the affordable housing for the approved scheme and are secured by section 106 agreement. The applicant proposes to secure the provision of the affordable housing to this scheme by a legal agreement with the Council that effectively varies the existing agreement. Subject to a suitably worded agreement this is considered acceptable and a trigger could be incorporated to ensure the affordable housing is delivered.

Layout/Scale/Appearance

The proposal uses the access approved under 11/01446/FUL, however in contrast to the approved scheme, much of the parking for the development is situated to the rear of the dwellings. This would be considered to improve the street scene of the development (in relation to the approved scheme). The application proposes a varied mix of housetypes. Property heights vary between approximately 5.5 metres (revised plots 11 and 12 – one and a half storey) and 9.8 metres (plot 10 – 2 and a half storey). The bespoke dwellings contain a range of design features and would contain a mix of brick and render with slate and plain tile roofs and painted timber fenestration. In terms of character and visual appearance the dwelling designs and layout are considered an improvement over the permitted scheme, which proposed somewhat bland designs. The varied styles, sizes and heights proposed would add interest and character to the development and overall the proposal is considered to reflect the scale and character of the surrounding area.

Access & Parking

This application proposes to utilise the access approved under application 11/01446/FUL. It is noted that residents have raised concerns over parking, however the Highway Authority are satisfied with the proposal subject to a number of conditions. They also recommend an obligation (via a S106 Agreement) requiring the applicant to endeavour to secure a traffic regulation order to restrict on street parking across the sites frontage (which will in turn protect visibility to the south of the access).

Residential Amenity

There are some uncomfortable relationships between some properties within the proposed development including an overbearing impact to plot 11 from plot 10 and very close proximity of principal windows between plot 4 and plots 2 and 3. Given that any buyer would be aware of this situation, it is not considered reasonable for these issues to form a reason for refusal.

Plots 1-3, a terrace of three dwellings (with a fourth dwelling attached to the side/rear of the terrace) is proposed to the rear of 11 – 17 (odd no's) Weir Road and to the North of 21 Weir Road. Given the proximity and the fact the site is on higher land to Weir Road dwellings, the development would undeniably have an impact on the outlook from the rear elevations of 11, 13, 15 and 17 Weir Road and could be

perceived by residents to result in overlooking and loss of privacy. The proposed terrace is located in a similar position to a terrace of four dwellings approved under 11/01446/FUL and the individual dwellings of the terrace are of a similar mass/scale. The ridge height of the proposed terrace is approximately 8.8 metres (plans shows 8.5m, however this is measured from finished floor level, rather than ground level). This is slightly higher than the approved terrace (8.3 metres), however the eaves height of the proposed terrace would be lower than that approved; 4.7 metres in comparison to 5.2 metres. The development complies with the Council's adopted supplementary planning guidance on separation distances and as such it is not considered that existing residents of 11, 13, 15, 17 or 21 Weir Road will be significantly adversely affected by the development proposals in terms of overlooking, loss of privacy or loss of daylight. Furthermore the relationship between plots 1 – 3 and neighbouring properties would be similar to the relationship of the approved terrace.

The development is considered to relate satisfactorily to the flats approved under 11/01446/FUL and to host properties Cross Bank House (14), 22 and 26 High Street and would also not adversely affect residential amenity at other dwellings to the North, North East and North West due to the separation distances involved.

Impact on residential amenity in relation to properties on Morrison Court

Officers raised concern regarding the impact of the original plans on residential amenity at Morrison Court. With respect to revised plans received 11/04/13 (listed as Amendment A), the agent confirms:

'Our revised application issued by email to Roz (drawing – 2862-08 rev B Plots 11 & 12 GA Plans & Elevations) reduced the ridge height to 5500mm (350mm higher than the approved scheme). Since then we have introduced hipped roofs to reduce the impact. The attached drawings show further improvement by removing the bay windows to allow Plot 11 to move forward, easing the relationship to Morrison Court. We have also reduced the finish floor level by 300mm. This results in the proposed ridge height being only 50mm higher than the approved scheme.'

Revised plots 11 and 12 would fall just short of 14 metres separation distance from the rear of Morrison Court properties (13.15 metres approx. for plot 11 and 13.8 metres approx. for plot 12). 14 metres is the guideline separation distance for a ground floor principal window facing a two storey structure (as set out in SPG). Plots 11 and 12, whilst having first floor accommodation, are not considered 2 storey structures, being of a height of 5.5 metres and with the first floor accommodated in the roofspace. Whilst properties on Morrison Court are sited at approximately 1 metre lower than the site of plots 11 and 12, this is not a sufficient level difference for plots 11 and 12 to be considered to have the same impact as two storey dwellings taking into account their design. A section has been submitted which demonstrates views from eye level (taken from the rear of Morrison Court dwellings), this shows only the ridge of plot 11 and 12 dwellings would be visible above the boundary fence. The half hipped design also helps reduce the amount of roof which would be visible.

Whilst the properties on Morrison Court are considered to be sensitive due to their small nature and very small rear gardens, it is considered that the amended proposal now demonstrates that whilst the proposed dwellings would undoubtedly be visible

from Morrison Court properties, the proposal would not be so overbearing as to warrant the refusal of the application.

The site is to the North of Morrison Court and therefore the proposal would not be considered to result in significant loss of light. The existing boundary fence would be considered to prevent loss of privacy to Morrison Court properties and the amended plans have removed rooflights from the rear elevations.

Plots 10, 9 and 8 are considered to be sufficiently far away from dwellings on Morrison Court so as not to adversely affect amenity. A double garage originally proposed adjacent to the southern boundary has now been omitted. The proposed parking to the rear of Morrison Court properties would inevitably lead to some noise from residents parking vehicles etc. but given the position of the parking court and the fact it serves only three dwellings, the level of disturbance would not be considered so significant as to warrant the refusal of the application on those grounds.

The remaining part of the southern site boundary is adjacent to a row of garages to the rear of flats on Home Close. Home Close flats would not be considered to be adversely affected given the distance to the proposed dwellings. It is more than 21 metres to the site boundary from the flats.

Trees & Hedges

As the site comprises the rear gardens of three properties, there are a significant number of specimen trees, as well as several areas of shrubbery and fruit trees. A total of 33 individual trees and 12 (no.) group trees have been surveyed (The Tree & Woodland Company, February 2011).

Of the 33 trees surveyed, 10 are on land where no development is proposed. Of the remaining 23 trees, one tree has been assessed as a category 'A' tree (high quality and value) (Walnut -1149); six trees have been assessed as category 'B' trees (moderate quality and value) with the remaining trees being assessed as either category 'C' (low quality and value) or 'R' (remove) trees.

The Walnut tree is to be retained. A number of category B trees are proposed to be removed; however the removal of some of these was approved under 11/01446/FUL. The Horse Chestnut (1132) is the most prominent tree on the site and can be seen from both Weir Road and Morrison Court/Home Close. The survey categorised this tree as this a 'C' tree as it is suffering from bleeding canker, however the Arboricultural Officer commented on the approved application that the tree *'shows minor symptoms of bleeding canker...but currently by no means particularly significant, although the disease may progress further'*. The Officer *"would categorise the tree as a 'B' rather than a 'C' on the grounds of its prominence and visual contribution, but its life expectancy (max.20years) barely merits this"*. The Officer concludes *'that retention of the tree with a relatively short future contribution, albeit a large and prominent specimen, would not be reasonable under the circumstances'*.

The County Arboricultural officer has also been consulted on this revised scheme and comments:

'T1149 is likely to be affected by the creation of the access drive and car standing on two sides of the tree, presumably within the RPA of a recommended 3.6m radius; it's almost always a disadvantage for the tree when more than one side of the rooting area is disturbed; T1157 (an off-site private tree) is likely to be affected by the construction of the car port and its associated hard surface inside it, both well within the RPA of 7.2m radius. The developer owes a duty of care to his neighbour (the tree owner) to ensure that his work does not damage his property, i.e. the tree. It may well be possible to construct these features without deep excavation, on top of existing levels by using a 'no-dig' method such as Cellweb or similar, thereby avoiding the root damage which would otherwise inevitably occur. However, there may be implications for road surface levels and the relationship with damp-proof courses of nearby buildings. I would recommend asking the developer to describe how he intends to do this work without affecting the trees.'

The agent has been asked to provide additional information demonstrating how the development can be carried out without affecting the trees. It is considered that a condition to agree tree protection and a method statement for the construction of the carport and parking/driveway to plots 11, 12 and 13 would be sufficient to prevent harm to trees that may otherwise warrant the refusal of the application. If satisfactory information is received prior to the Committee, a pre-commencement condition may be unnecessary.

Ecology

RSK Carter Ecological Ltd undertook a Phase 1 Habitat and Animal Walkover Survey in February 2011, which found no evidence that Badgers are using the site; a large Horse Chestnut tree that has features suitable for roosting bats; three ponds that could support breeding GCN and habitat suitable for foraging and hibernating reptiles. Based on these findings, presence/absence surveys (Phase 2 Surveys) were then undertaken in June 2011.

No GCN were recorded in any of the ponds considered suitable for this species. Although no evidence of roosting bats was found during the survey, the Horse Chestnut tree does provide a suitable bat roosting site. As such the report recommends that the tree is re-inspected immediately prior to felling.

LCC Ecology has raised no objections to the application on the basis of the information supplied, subject to a condition requiring the applicant to adhere to the recommendations of the reports and consideration being given to planting the area to the north of the access road with native species, to ensure that there is some continuation of the habitats impacted.

S106 Agreement

Policy CS12 states that new development will require the provision of infrastructure, as set out in the Local Infrastructure Schedule contained in Appendix 2. The infrastructure listed includes schools, community facilities, healthcare, highways and transportation, libraries, policing, recycling and waste management, and sewerage. The requested S106 contributions as outlined earlier in the report and monitoring fees generally satisfy national policy and Development Plan policy, and meet the tests in Circular 05/2005 and the requirements of paragraph 122 of the 2010 CIL

Regulations. Any approval should therefore be subject to obligations to secure these contributions.

Housing Supply:

The Council's latest housing supply calculation (30th September 2012) indicates the Council can demonstrate a housing supply of 5.54 years. This application does not propose to alter the number of dwellings previously approved and therefore would not impact on housing land supply.

Ownership Issue:

It has been suggested that the correct notification procedure has not been followed by the applicant, as Lantern House 4/6 High Street, Kibworth has not received notification with respect to the Town and Country Planning (Development Management Procedure) (England) Order 2010, Certificate under Article 12, however the applicant advises the site area does not contain land belonging to 4/6 High Street. Issues of ownership are not considered to be a material planning consideration, however it is important that the correct notification procedure has been followed. Ownership information is accepted from applicants by the LPA in good faith and the owner of 4/6 High Street is aware of the application and the decision is therefore not considered to be prejudiced.

Conclusions

This infill development will provide a good mix of housing, (including securing special needs housing) and is accessible to public transport, community facilities and services. The development by virtue of its scale, design and appearance is considered to reflect the surrounding built form without significantly adversely affecting neighbouring amenity or the setting of adjacent heritage assets. Furthermore, the development will not be detrimental to highway safety. The development therefore complies with policy CS3, CS11 and CS17 of the Harborough District Core Strategy and the NPPF.

Conditions

See Supplementary List.

13/00135/VAC – SHEARSBY

BHM Knitwear Ltd

Target Date: 01/05/2013

Variation of condition 3 of 11/01682/FUL to allow the erection of a field gate of 3.68m in width and metal construction.

Land Off
Fenny Lane
Shearsby
Leicestershire

Recommendation:

APPROVE for the following Reason and subject to the appended Conditions.

The proposal is an appropriate development within the site context, will not have a detrimental effect upon highways safety, neighbouring amenities, green infrastructure or ecological interests, and will not be harmful to the character and appearance of the Conservation Area. The proposal, therefore, complies with Policies CS8, CS11 and CS17 of the Harborough District Local Development Framework Core Strategy and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account 186-187 of the National planning Policy Framework.

Site / Proposal:

The application site relates to an agricultural field on the southern perimeter of the Conservation Area settlement of Shearsby. The whole of the red line site lies within the Conservation Area. The head of the Fenny Lane cul-de-sac is where the field gate is erected accessed via a hard surfaced track.

A native species field hedge currently delineates the boundary and two trees lie within proximity of the proposed gate. A section of this hedge has been removed and a “5-bar” metal field gate positioned in the opening. The gate measures approximately 3.68m in breadth by 1.3m in height.

Background Information:

Planning permission was granted for the erection of a field gate under reference 11/01682/FUL. Condition 3 of the consent specified:” The field gate hereby approved shall be 3m wide, no more than 1.3m in height, and shall be constructed of timber in a matching design to that submitted in the Design & Access Statement. Reason:- In the interests of visual amenity, to protect the character and appearance of the site, Conservation Area and surrounding countryside and to accord with Policy CS11 of the Harborough District Core Strategy”.

Permission was not required for the creation of the vehicular access, as Fenny Lane is not a Classified Road. The applicant could remove the hedgerow and create the access without requiring permission from the Local Planning Authority.

Planning permission was required because the height of the field gate is over 1m high and it represents a boundary treatment adjacent to a highway. Any boundary treatments over 1m high adjacent to a highway necessitate a planning application.

Policy:

Local Policy – adopted Harborough District Core Strategy

CS8 – *Protecting and Enhancing Green Infrastructure*

CS11 – *Promoting Design and Built Heritage*

CS17 – *Countryside, Rural Centres and Rural Villages*

Consultations:

The application has been publicised by Site Notice and Press Notice in accordance with Circular 15/92 – Publicity for Planning Applications. The relevant Parish Council has been notified.

Leicestershire County Council:

Highway Authority:

No objections – consider drainage. Add Informative Note to applicant regarding works within highway.

Parish Council:

Objects. (full comments online)

Residents are dismayed that gate has been installed in contravention of the agreed planning conditions. The least that should be done is to install a wooden gate.

Representations:

Letters of objection from 9 different addresses have been received (see online for full details):

1. Applicant is from the business address of previous Applicant.
2. Applicant has ignored conditions regarding width and materials.
3. The Council must show its authority in ensuring that conditions are met within set time scales. If not, indicates that whole policy making system and Council meetings are a waste of time.
4. Permission granted despite 26 objections and conditions must be up held.

Other Information:

Public Rights of Way:

Public Footpath Y70 nearby, but not affected.

History:

08/01026/**AGR** – Creation of hardstanding and access for agricultural vehicles and storage (resubmission of 08/00478/AGR) – Determined to be Agricultural Permitted Development, 21/08/08.

11/01682/FUL- Erection of field gate (approved 27.01.2012)

Committee Determination Requirement:

The application is being reported to the Planning Committee for determination because 5+ letters of objection have been received.

Planning Considerations:

Policy Assessment:

As this application is for the erection of a gate, within a Conservation Area (and within close proximity to a public footpath), Policies CS8, CS11 and CS17 (of the Core Strategy) are relevant.

Principle of Development:

The principle of a field gate related to access to a rural field has been agreed thus the key changes relate to an increase in width by 0.68m and the change of materials from the approved timber to metal.

Impact to Residential Amenity:

The changes to the approved field gate will have no impact on the amenities of surrounding neighbours.

Impact on the Character and Appearance of the Area:

The proposed field gate is of traditional agricultural design and is constructed of metal as opposed to the approved timber and has been increased in width. The reason for the original condition was. Reason:- In the interests of visual amenity, to protect the character and appearance of the site, Conservation Area and surrounding countryside and to accord with Policy CS11 of the Harborough District Core Strategy.

The gate maintains the rural aspect of the top of Fenny Lane and is similar to many agricultural related gates seen across the District, and the increase in width is not considered to make a significant visual impact.

The change to the material is not considered to have a significant adverse impact on visual amenity or the character and appearance of the Conservation Area which includes a variety of different gates, particularly to agricultural fields.

Highways Considerations:

No objections are raised.

Other Considerations:

Comments have been made about the enforcement of conditions. However, the Council must consider the variation proposed in the context of the adopted policies and the harm that would result from the retention of the gate in its current form. In this case the gate reflects the rural character and is not considered to result in significant harm such that refusal and subsequent enforcement action is justified.

Conditions / Reason:

Vary condition 3 of 11/01682/FUL to:

- 1. The field gate hereby approved shall be no more than 3.68m wide, no more than 1.3m in height, and shall be maintained as metal or timber. Reason: In the interests of visual amenity, to protect the character and appearance of the site, Conservation Area and surrounding countryside and to accord with Policy CS11 of the Harborough District Core Strategy.

13/00181/VAC – Great Glen
Mr Amliwala

Variation of Condition 3 of 04/00220/FUL
to allow opening times of 8am to 8pm
Monday to Friday and 8 to 6pm Saturday
and 10am to 4pm Sunday. 2 Fox Pond
Lane, Great Glen

Target Date: 9/4/13

Recommendation

APPROVE subject to the appended conditions

Site:

The site is know as Glen Rise separated but relatively close to Great Glen village. The site has the appearance of a 1980’s four bedroom detached dwelling, with garage and parking to the rear. It is located at the head of the close. With residential dwellings to the rear and side. Opposite there is green space then dwellings. To the north across the main road are fields.

The Proposal:

Approved hours 04/00220/FUL Condition 3 Monday to Friday 9am to 5pm

Proposed hours Monday to Friday 8am to 8pm (1 hour earlier and 3 hours later)
Plus Saturday 8am to 6pm and Sunday 10am to 4pm

The applicant is a financial advisor (25years) and runs a financial services company from the building; there are 3 full time and 1 part time (including the applicant and his wife) people at his company. Visitors come by appointment on average 3-5 a week. There are no deliveries due to the type of business apart from the postman.

The reason for the extension of hours is to carry out paperwork and on-line work which has increased over the years due to increase in regulations. Due to phone calls etc. during the day, unable to process the paperwork during existing permitted hours. Mostly the applicant and his wife that will be doing the longer hours.

Policy

National:
Para 17. Core Planning Principles

Harborough District Core Strategy:
CS11 – Promoting Design and Built Heritage

Consultations / Representations:

Highway Authority:
No observations

Environmental Health (HDC):

Comments: concerns regarding the impact upon resident's amenity, however, not able to object, therefore consider conditions restricting hours visitors can visit the premises/or limit change of hours to business only. *Officer's comments: these conditions are not considered enforceable.*

Parish:

Objects: increase in pedestrian and vehicular traffic in residential area; Fox Pond Lane is residential road, business activities are out of keeping with the area especially out of normal working hours.

Representations:

6 letters of objection (1) residential area, opening at the weekends will affect the character of the area; (2) parking problems (3) traffic as customers have to turn round at the top of the cul de sac.

Other Information

Public Rights of Way:
n/a

History:

04/00220/FUL Change of use of residential property to B1 (offices) Approved
13/04/04

Planning Considerations:

Policy Assessment:

As this application is for the variation of hours at offices in a residential area, Policy CS11 is considered most relevant. Policy CS11 states that development should be inspired by, respect and enhance local character, building materials and distinctiveness of the area and be of a scale, density and design that would not cause damage to the qualities, character and amenity of the area. It should also reflect the landscape in which it is situated.

Impact upon character of the area:

The proposal does not result in a change to the building, or parking arrangements, therefore there are no visual impacts of the proposal on the street scene. The

application is therefore considered to be in accordance with Policy CS11 of the Harborough District Core Strategy.

Residential amenity:

The use itself does not cause disturbance as it is within the building. However it is the comings and goings of employees and visitors and parking that are issues to consider and why the Condition was put on in the first place. There are not many people working on site or visitors to the offices, however, a number of objections to the proposal have been received. As it is difficult to assess whether the longer hours would cause residential amenity concerns, it is proposed to allow the extended hours as proposed for 2 years to see if it generates any valid noise/disturbance complaints. The application with temporary consent is therefore considered to be in accordance with Policy CS11 of the Harborough District Core Strategy.

Highways and parking considerations:

There are 4 parking spaces available 2 in the garage and 2 on the driveway. This complies with condition 2 of the consent. The Highways officer has no observations to make on the proposal. Therefore there are no highway safety issues. The application is therefore considered to be in accordance with Policy CS5 of the Harborough District Core Strategy.

Conclusion:

The proposal is not considered to cause visual, highways and amenity concerns as amended, therefore the proposal accords with Policy CS11 of the Harborough District Core Strategy.

Conditions / Reason:

1. The premises for a period of 2 years only (until 14th May 2015) shall not be used for the purposes approved other than between the hours of Monday to Friday 8am to 8pm, Saturday 8am to 6pm and Sunday 10am to 4pm. After that date the opening hours shall revert to those approved on the original consent (04/00220/FUL) REASON: In the interests of residential amenity and to accord with policy CS11 of the Harborough District Core Strategy.

13/00182/FUL – Knaptoft/Mowsley
Chase Milton Energy

Erection of a 79m wind turbine and
associated works, Land OS 4400,
Welford Road, Knaptoft, Leicestershire

Target Date: 01/05/13

Recommendation:

REFUSE after the consultation period expiring 17th May 2013 for the following reason,

The proposal, by virtue of the size, siting, design and prominence of the turbine, would appear as a dominant and visually intrusive feature in the landscape detrimentally affecting countryside character and appearance and is therefore contrary to Policy CS9, CS11 and CS17 of the Harborough District Core Strategy.

Site/Context:

The site is located in the countryside and is agricultural grazing land adjacent to the A5199. Warren Farm is the closest dwelling to the proposed turbine, at a distance of approximately 440 metres. The Cottage Farm is the closest third party dwelling at approximately 610 metres from the proposed turbine. The next closest dwellings are:

- Mowsley Chase Farm 630 metres away (approx.).
- Mowsley lodge 720 metres away (approx.)
- Knaptoft Lodge farm 740 metres away (approx.)

The nearest village is Mowsley, approximately 1.3km to the North East. The small settlement of Knaptoft is approximately 1.7km to the North West. A mast is located on a high point approximately 400 metres from the site of the proposed turbine.

The site is well away from any other built form and is outside any village boundary or defined Limits to Development. The closest listed structure is a grade II listed mile post adjacent to the A5199 approximately 600 metres from the site of the proposed turbine. There are a number of grade II listed buildings in Mowsley and a grade II* listed church. The site is approximately 750 metres from the nearest scheduled Ancient Monument on the opposite side of the A5199.

The Proposal:

The application is for a single 500 – 800 kw turbine of a maximum of 79 metres to the tip. The application states that the make and model of the turbine has not been determined at this stage, however the application is based on the Enercon E48 and alternative turbines would be very similar in size and appearance. The hub height shown is 55 metres, with each blade measuring 24 metres. The turbine would be finished in a non-reflecting semi-matt off-white colour.

The turbine would be accessed from a track leading from an existing access off the A5199 serving Warren Farm. A 5 metre by 3 metre ancillary building is also proposed. The building would have a mono-pitched roof which would be a maximum of 3 metres high.

Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 the proposed development is not EIA development, i.e. it does not meet the thresholds therein (relating to number of turbines, generating capacity and the proposal's relative strategic importance), and so an Environmental Statement has not been required or submitted.

The proposal is supported by various documents. These are available to view and include Environmental Report & Appendices (February 2013) containing a Landscape and Visual Impact Assessment (LVIA) and Cultural Heritage and archaeology report.

Policy:

National

National Planning Policy Framework

Ministerial Statement – 'Planning for Growth' (23.03.11)

Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System

Local Policy:

Harborough District Core Strategy:

CS8 – Protecting and Enhancing Green Infrastructure

CS9 – Addressing Climate Change

CS11 – Promoting Design and Built Heritage

CS17 – Countryside, Rural Centres and Rural Villages

Harborough District Local Plan:

RM/8 – Sites of local ecological or geological interest

Local Plan for Harborough District (including APPENDIX B Review of Core Strategy: NPPF Compatibility (3rd December Council 2012))

Local Guidance:

Wind Turbines – A Developer Guidance Note (HDC) – July 2009

Other

UK Renewable Energy Strategy (DECC, 2009)

Wind Energy and the Historic Environment (English Heritage, 2005)

Climate Change Programme (DCLG, 2006)

Meeting the Energy Challenge – a White Paper (HMSO, 2008)

Harborough District Landscape Character Assessment (2007)

Planning for a Sustainable Future: White Paper (DCLG, 2007)

The Planning for Climate Change Report (IT, 2008)

Market Harborough Landscape Character Assessment and Landscape Capacity Study (2009)

Planning for Climate Change (supplementary national guidance) (April 2012)

Circular 11/95 – Use of conditions in planning permission

Circular 06/05 – Biodiversity including statutory obligations within the planning system

Consultations:

LCC Ecology:

Initial response: Unable to access report. Any further comments to be reported.

LCC Highway Authority (LHA):

All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001)

A full construction program should be submitted to the Highway Authority prior to commencement.

A before and after survey of the route/s used by the construction traffic shall be carried out in conjunction with the Highway Authority. Any consequential damage to the public Highway shall be made good entirely at the applicants expense.

A number of conditions recommended.

English Heritage:

None received to date.

NATS

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NERL (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NERL in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

East Midlands Airport:

In general terms, no comments other than to request serious consideration is given to the installation of some form of illumination on the top, as even in good weather they are extremely difficult to see from the air. Police and air ambulance helicopters operate within the district often at low heights and in poorer visibility, to perform their operational tasks and any improvement to flight safety is welcomed.

CAA

There is currently a high demand for CAA comment on wind turbine applications which exceeds the capacity of the available resource to respond to requests within the timescales required by Local Planning Authorities. The CAA has no responsibilities for safeguarding sites other than its own property, and a consultation by a Council is taken as a request for clarification of procedural matters. Councils are reminded of their obligations to consult in accordance with ODPM/DfT Circular 1/2003 or Scottish Government Circular 2/2003, and in particular to consult with

NATS and the Ministry of Defence as well as any aerodromes listed in Annex 3 of the above documents, taking note of appropriate guidance and policy documentation. Should the Council be minded to grant consent to an application despite an objection from one of the bodies listed in the circular, then the requisite notifications should be made.

Whilst the CAA recommends all aerodrome operators/license holders develop associated safeguarding maps and lodge such maps with local planning authorities, the CAA additionally encourages councils/planning authorities to undertake relevant consultation with known local aerodromes regardless of status or the existence of any aerodrome/council safeguarding agreement, including local emergency service Air Support Units (e.g. Police Helicopter or Air Ambulance).

There is an international civil aviation requirement for all structures of 300 feet (91.4 metres)* or more to be charted on aeronautical charts. However, on behalf of other non-regulatory aviation stakeholders, in the interest of Aviation Safety, the CAA requests that any feature/structure 70 feet in height, or greater, above ground level is notified to the Defence Geographic Centre ICGDGC-ProdAISAFDb@mod.uk, including the location(s), height(s)* and lighting status of the feature/structure, the estimated and actual dates of construction and the maximum height of any construction equipment to be used, at least 6 weeks prior to the start of construction, to allow for the appropriate notification to the relevant aviation communities.

Any structure of 150 metres* or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. Although if an aviation stakeholder (including the MOD) made a request for lighting it is highly likely that the CAA would support such a request, particularly if the request falls under Section 47 of the Aviation Act.

Cumulative effects of turbines may lead to unacceptable impacts in certain geographic areas.

The Ministry of Defence will advise on all matters affecting military aviation.

Should the Council still have a specific query about a particular aspect of this application the CAA will help in the clarification of aviation matters and regulatory requirements. Site operators remain responsible for providing expert testimony as to any impact on their operations and the lack of a statement of objection or support from the CAA should not be taken to mean that there are no aviation issues, or that a comment from an operator lacks weight.

Guidance relating to the impact of wind turbines upon aviation can be found at <http://www.caa.co.uk/docs/33/Cap764.pdf>. More generic comment relating to the CAA involvement in the planning process is described at http://www.caa.co.uk/docs/33/DAP_GuidanceOnCAAPanningConsultationRequirements.pdf.

Harborough District Council:
HDC Environmental Services:

As a single large Turbine, ETSU would apply. The applicant could potentially try and comply with 35dB at the nearest residential premises. If they cannot, they would have to undertake a full ETSU assessment. Can you please condition as you have done previously for this type of application? I would like to look over the condition before it is applied.

Parish Councils / Meetings:

Knaptoft

None received

Mowsley

At the Parish Meeting held on 25 March 2013 held in the Village Hall, Mowsley it was unanimously agreed that the Parish should formally object to this application. Subsequently, and in order to gauge the total view of the village, a house-to-house Petition/Survey was undertaken throughout the village. The result was that 85% of all respondents were against this application. The survey involved 82% of the village households with only 15% of those asked either ambivalent or for in favour of the turbine's construction. This survey is available to be viewed if required.

However, the parish is mindful of the need for alternatives to fossil fuel based energy sources and there is support within the village for carefully sited proposals which do not have a significant detrimental impact on the immediate surrounding landscape. There are already a number of small individual turbines that meet this criteria (and some that do not!).

The parish would have hoped, and should reasonably expect, to have been involved at an early stage in all such proposals. It is, therefore, extremely disappointing that, given the size and impact of the proposal, the developers did not at any stage seek the views of the parish prior to the submission of the application. As result the Applicants have had over a year to construct their proposals whereas the Parish has had only a few weeks to bring forward any well founded objections

The principle areas of objection, and in no particular order of importance, are as follows

(1) **Size:** The size of the proposed turbine is totally disproportionate to the location. At 79 metres (230 feet) in height it will dominate the horizon in what is a tranquil and rural setting. It is to be sited at one of the highest points in South Leicestershire making the impact of any development significant within a very wide radius. The zone of theoretical visibility illustrates that the blade and possibly the nacelle may be visible from much of the area within 20 miles. Equally the Landscape and Visual Impact Assessment suggests that there would be a direct effect on the Laughton Hills, which is an area designated as an Area of Particularly Attractive Countryside in the Harborough District Local Plan 2001 (LP) which is less than one and a half miles away. In the Harborough District Landscape Character Assessment 2007 (HDLCA) the site is in the Laughton Hills Landscape Character Area.

(2) **Siting.** Whilst technically in the parish of Knaptoft the biggest impact will be upon Mowsley. The proposed site is less than 1 mile from the centre of the village of Mowsley and several houses on the periphery of the village are considerably closer.

Knaptoft Lodge, Mowsley Lodge Farm, Mowsley Chase Farm and Cottage Farm are less than half mile from the site whilst Mowsley Hills Farm, New Farm and Manor Farm are situated just over three quarters of a mile away. The Landscape and Visual Impact Assessment impact on each of these individual properties would be major.

(3) Effect on Road and Bridleway Users: The proposed site is less than 100 metres from the A5199 in a section of the road where there are frequent accidents. The road rises and twists slightly but appears to offer a clear overtaking opportunity for drivers who have been obliged to follow slower vehicles for some time when travelling in either direction. In reality, there is not a full clear view and a distraction such as a huge wind turbine would only exacerbate potential life-threatening manoeuvres.

The proposed site is also near a very dangerous corner and with the access and exit for more than one bridle way brings with it the further potential hazard of spooked horses.

The turbines close proximity to the road also raises the likely effect if the turbine were to collapse. The United Kingdom is becoming an island that is experiencing stronger winds with higher wind speeds. Should the turbine be uprooted/destroyed by adverse weather conditions the resulting debris would almost certainly be spread instantly across the A5119

(4) Concentration of Wind Turbines: Permission has already been granted to erect two wind turbines at Cottage Farm, 400 metres north of this proposed erection (12/0382/FUL) but on the opposite side of the road creating, in effect, a tunnel of wind turbines. This dense concentration of turbines will inevitably lead to an amplification of the Noise and Visual negatives associated with wind turbines, in general.

In his objection to Application 11/01120/FUL (for the Pincet Lane Wind Turbine nearby) the local MEP Roger Helmer voiced similar concerns regarding the siting of 15 other large turbines within 5 miles. His comment "*This is supposed to be a rural area, not an industrial site*" is very apposite

(5) Predictive View: It would appear that the applicant has deliberately engineered some of the detail of the application in an attempt to demonstrate that there would be a minimum impact on the Mowsley Community. In the Environmental Report the applicant has produced a Predictive View suggesting that only the tip of the blade would be visible from Mowsley. The image was taken from a public right of way outside, and below, Mowsley at a height considerably lower than the average village height above sea level and this has thus distorted the resulting predictive image. The image is taken coming out of a dip and is a view that many, if any residents, would ever stop and see. It is also at one of the few points where the turbine would be shielded by middle-distance trees. There would not have been the same shielding effect if the predictive view had been calculated, and viewed, from another more sensible position .

Mowsley is on a ridge and the proposed turbine will be on a parallel, but higher ridge, to the South West. The Environmental Report (Site Description: 2.3) notes that the

turbine will be sited at 170 metres above sea level. The Village of Mowsley stands on the 155 metre contour line and there are no contours higher than the proposed site in between. It is therefore a complete nonsense to assert that the turbine blades will only just be seen.

Whether by accident or design it is also interesting to note that the final predictive view taken from Saddington, and which would not have the benefit of any tree/building screening, has been omitted from the Environmental Report. The overwhelming impact of the turbine would have been clearly visible had this image been included.

The applicant also states, quoting the Planning Inspectorate's rejection of the Pincet Lane wind turbine application (11/01120/FUL), that *"the Planning Inspector deemed that this (Pincet Lane) application was acceptable in landscape character terms - quoting the Inspector as saying:*

"I have found only very limited conflict with the development plan in terms of landscape and visual impact. As the proposal involves a single turbine in an area with expansive views such conflict would not be overriding."

The applicant carefully avoids the rest of that paragraph which goes on to state

".....nevertheless because of the particular siting of the wind turbine together with its height, the wind turbine would be a constant and overbearing presence"

(6) **Noise:** Perhaps the most contentious issue but nevertheless one that has to be borne in mind. There is no doubt that wind turbines produce low level humming and there is equally no doubt that this level of noise leads to sleep deprivation and associated complaints. Reference to a report published by HDC when refusing Application 11/01120/FUL is as follows

".....showing significant negative health impacts on residents up to five kilometres from wind farms. These effects include sleep deprivation, insomnia, headache, migraine and depression."

These comments are ascribed to Dr. Chris Hanning, who is a leading and recognised expert on sleep disorders, at the University Hospitals of Leicester.

Given that the proposed site is also to the South West of the village this will mean that any such noise will be carried by the prevailing wind directly towards the village

7) **Shadow Flicker:** There will undoubtedly be shadow flicker effecting many of the west facing properties where there are no intervening land masses or buildings to break up the flicker effect. Properties such as Mowsley Lodge Farm, Mowsley Chase Farm and New Farm will have an uninterrupted direct view of the turbine as the properties all face west. As the sun sets behind the turbine the intrusion will be at its greatest

Again quoting the Planning Inspectorate's Report re Pincet Lane *" (it is recognised that)..... the outlook from private property is a private interest not a public one*

and there is not 'right to a view'. However, where the visual impact of a proposal is such as to cause unreasonable living conditions/amenity for the occupants of individual homes, and might be widely regarded as making the property an unattractive place in which to live, that is a legitimate matter of public interest"

The placing of this turbine would therefore have a permanent detrimental impact on the residents of the property.

8) **Local Economy:** This application will have no impact whatsoever on the Local Economy or Employment. In fact, there is a scenario that would suggest that if, as is thought, there are other applicants lining up behind this application then there could be a shrinking of the Local Economy as landowners take advantage of the one-off financial inducements and reduce numbers employed on smaller less profitable operation.

The only beneficiaries of such a development will be the landowner and the non-residential Applicant Company/Agent. This is an opportunistic application driven purely by profit generation.

9) **Lack of Policy on Wind Farms:** It is known and accepted that HDC have no policy on Wind Farms which makes this sort of application hard to evaluate against the overall Strategic Plans. However, other neighbouring Authorities have moved towards adopting such policies and it is suggested that reference to the Rutland Plan, given that Rutland's topography is similar to Market Harborough, might be beneficial.

10) **Commercial Reality:** Whilst recognizing that Commercial Factors cannot be taken into account when determining a Planning Application there has to be some sense of the real world that exists. The only beneficiaries of such a development will be the landowner and the Applicant Company/Agent. It is known that many landowners in the area have already been blanket-mailed about potential sites for additional turbines and it is inevitable that further applications will follow should this succeed. What could start of as a single turbine would in a short space of time snowball into an avalanche. Acceptance of this specific application will mean three turbines within a few hundred yards of each other and the prospect of more indiscriminately placed structures elsewhere.

11) **Precedent:** It is understand that precedent does not necessarily come into play in Planning Law but surely one has to look at the refused Application for Pincet Lane. The proximity of such an application must have some bearing on the current application. The grounds for refusal are just as valid here as they were there and should therefore not be dismissed

12) **TV Reception from Sutton Coldfield:** There is a concern that the TV reception from the Sutton Coldfield Transmitter, and which is itself South West of both the village and the proposed turbine, will be compromised. An undertaking to the effect that there would be no interference would have to be a pre-requisite to any approval

This is an application, which if approved, will have a significant and lasting impact on the rural aspect of South Leicestershire for years and years to come, if not for ever. The Parish Meeting would therefore urge you to reject this application.

Laughton

Planning Sub Committee: Object. Would have direct effect on Laughton Hills and beyond to Laughton. Sited on high ground, therefore significant visual impact, including land designated particularly attractive countryside. Concerns regarding noise, highway safety and disruption. Question whether turbine of this size would generate enough energy to be worthwhile?. Benefits need to be set against harm; detrimental impact on landscape and visual environment. With more windfarms being submitted, Harborough will become a much less attractive place to live.

Shearsby

The planning notice was displayed on the noticeboard 18/03/13. No comments have been passed to the Chair of the parish meeting 05/04/13.

Saddington

Concerns include:

- Noise and visual impact.
- Request more neutral colour for turbines.
- Approval could create precedent for proliferation of turbines.
- Noise and distraction to horses and riders. Sited close to footpaths and bridlepaths.
- Highway safety issues
- Health impacts of those living in the vicinity.
- Those out of site and sound are generally not opposed. Those potentially directly affected are generally opposed.
- Parish generally support green energy, but do not endorse large scale windfarms in unspoilt open countryside.
- Little employment benefit
- Does carbon cost of development/manufacture exceed reduction in CO2?
- Parish do not endorse the installation of wind turbines that are primarily business ventures that only benefit the landowner. In the same way as HDC would be unlikely to approve a factory in open countryside, we question why wind turbines are treated differently?
- Against a proliferation of turbines.

Theddingworth

None received

North Kilworth

None received

Husbands Bosworth

None received

Bruntingthorpe

None received

Representations:

36 letters of objection received to date. Full details can be viewed on request on the application file. Objections include:

1. Too tall/high, 2. Oppressive, 3. Overbearing, 4. Significant adverse visual impact/impact on countryside/detrimental effect to landscape character, 5. One of highest points in Leicestershire/South Leicestershire, 6. Offshore siting more appropriate, 7. Would support a small turbine for farm to generate its power, 8. Site in an area of particularly attractive countryside/attractive area with broad views over the countryside, 9. Interfere with peoples' quiet enjoyment of the countryside, 10. Impact on footpath users, 11. Seen for many miles/prominent location/impact on wide area, 12. Safety risk from ice and blade failure, 13. Safety impact on horse riders/horses, 14. Detrimental impact to equine business, 15. Area devoid of other huge constructions, 16. Contrary to PPS7, 17. Area on CPRE Tranquility map, 18. Other locations more suitable, 19. Set precedent, 20. Detriment to view, 21. Supporting information misleading/uses selective information, 22. Less harmful proposal refused, 23. Possibility of two smaller turbines which could generate similar energy but with less impact, 24. Pincet Lane turbine rejected, therefore this proposal should also, 25. Business venture which does not consider impact, 26. Dwarf the historic village of Mowsley, 27. Detrimental impact on setting of Listed Buildings, 28. Detrimental to operation of telephone mast, 29. Should be sited with existing wind farm, 30. Dominant, 31. Shadow flicker, 32. Out of keeping, 33. Too close to dwellings/impact on amenity, 34. Noise, vibration and associated health risks, 35. Threat to health and wellbeing, 36. Government recommends turbines should not be within 1 mile of habitation, 37. Sound impact to Mowsley due to prevailing wind and topography, 38. Inefficient and wear rapidly, 39. Archaeological impacts. On or near site of ancient East West route probably dating from pre-historic times, but certainly roman. 40. Hub height would be highest point in Leicestershire except for the Beacon Hills. Would also be higher than the Hothorpe Hills to the South, 41. Sited on nationally important watershed, 42. Fails to meet many government guidelines/criteria, 43. Turbine would be clearly visible to majority of houses on South West side of Mowsley, 44. Impact assessments should be made, 45. Impact on flight paths/air safety, 46. Selective use of guidelines; misleading, 47. Visual impact not outweighed by benefits, 48. Lack of/limited compensating benefits, 49. Financial inducement offered to village underlines weakness of case, 50. Television interference, 51. Too close to villages, 52. HDC has inadequate policy/no policy on turbines, 53. LVIA indicates harm, 54. Laughton Hills character area highlighted as important for landscape features and wildlife, 55. Loss of amenity for recreation, 56. Impact on ecology, 57. Cumulative effect/too close to Cottage Farm site, 58. Impact/proximity to ancient monument/medieval village, 59. Application for further turbines may follow, 60. Amount of concrete required and impact on environment, 61. Distraction to drivers/highway safety, 62. Visualisations misleading/incorrect/challenge view point choice/viewpoint in Mowsley is one of the lowest points in the village and not one most would see.

Other Information:

Public Rights of Way:

Footpath Y42 and Bridleway Y46 lead from the A5199 to the North East and South East respectively. At the closes point (opposite the access to Warren Farm and the site) they are approximately 200 metres from the proposed turbine. Bridleway Y43 begins approximately 400 metres to the South East of the site at the access to Mowsley Chase Farm. Bridleway Y47 runs roughly North South and is approximately 600 metres from the proposed turbine at the closest point.

History:

None relevant to proposal.

Information:

The application is being reported to the Planning Committee at the discretion of the Development Control Manager due to public interest.

Policy Overview:

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant polices contained within the Development Plan unless material considerations indicate otherwise. The East Midlands Regional Plan (EMRP) has recently been revoked, therefore the development plan now contains, the adopted Harborough District Core Strategy, and the retained polices of the Harborough District Local Plan (HDLP). National guidance in the form of the National Planning Policy Framework, together with Government White Papers and Reviews, is also relevant.

Climate Change:

Change in global and regional temperatures and precipitation patterns is a natural phenomenon and there have been a number of cooling and warming periods over the last millennium. However, in the late 1980s, a growing concern emerged that the climate was being influenced by man beyond these normal fluctuations.

In 2007 the Intergovernmental Panel on Climate Change (IPCC) stated that it is unequivocal that climate change is happening and it strengthened its conclusions as to the causes of the temperature rises. Evidence of climate change is all around us. On average summers are getting warmer and winters milder. This reflects the global rise in temperature identified by the IPCC: *“Eleven of the twelve years (1995 – 2006) rank among the 12 warmest years in the instrumental record of global surface temperatures (since 1850)”* These increases in temperature are having global environmental effects.

The fact that the need for renewable energy stems from the supranational level is crucial, as has been recognized by Government. It means that, in drawing any planning balance, considerable weight is to be attached to bringing forward any relevant renewable energy project, while recognising the need to *sensitively* exploit the local environment.

The UK Renewable Energy Strategy (published July 2009) suggests ways in which the tensions caused by high levels of renewable energy production can be eased. These were stronger national planning policy statements, developing a clear deployment strategy at a regional level and resolving potential conflict with other national Government policies through the development of memoranda understandings to provide clarity on the scope and applicability of UK and EU environmental regulation.

National Guidance:

The Energy White Papers of 2003 and 2007 provide the broad context for planning policies concerned with renewable energy. These state that renewable energy is key to the Government's strategy for tackling climate change and, "supporting the transition to a low carbon future in a changing climate". The Government's target is for renewables to grow as a proportion of the UK's electricity supplies to 10% by 2010, with an aspiration for this level to double by 2020.

Core Planning principle in the Framework Para. 17 states: "*[Planning should] support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the use of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (e.g. by the development of renewable energy.)*"

Paragraphs 93 to 98 explain that planning plays a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure by planning for new developments, actively support energy efficiency improvements to existing buildings and set local area requirements for zero carbon buildings. In determining applications new development should comply with local plan policy regarding decentralised energy supply and take account of landform, layout building orientation, massing and landscaping to minimise energy consumption. An application should be approved, unless other material considerations indicate otherwise, if its impacts are (or can be made) acceptable.

In respect of the historic environment the statutory requirements of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are of particular relevance. The first requires that special regard shall be paid to the desirability of preserving Listed Buildings or their settings or any other features of special architectural or historic interest which they possess. The second requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The closest Conservation Area is in Loughton, approximately 2.7 metres to the North East of the site.

The NPPF guards against harm upon residential amenity which stems from noise. Para 123 of the NPPF states that decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Local Policy (Harborough District Core Strategy):

Policy CS9 states that development which adapts to climate change and helps to reduce the District's carbon emissions will be supported. Development will be directed towards the most sustainable locations and mitigate against any potential impacts on the environment,

and the use of renewable and low carbon energy sources are promoted. Policy CS9 also states that energy generation will be supported, where the proposal:

- (i) Ensures that the most appropriate technology is selected for the site;
- (ii) Ensures that the siting of development avoids harm to the significance of a heritage asset, whether designated or not, and its setting;
- (iii) Ensures that the impact of the development on local landscape character and historic landscape character is minimised;
- (iv) Ensures that the siting of development does not create a significant noise intrusion for existing residential dwellings;
- (v) Includes measures to mitigate against any adverse impacts on the built and natural environment resulting from the construction, operation and decommissioning of any equipment/infrastructure;
- (vi) Does not create an overbearing cumulative noise or visual impact from renewable energy developments when considered in conjunction with similar developments and permitted proposals within the District and within adjoining Local Authority Areas.

Policy CS11, among other things, requires development to be of a scale, density and design that would not damage quality and character of areas in which they are situated, and which respects the context in which it is taking place. It also states that new development affecting Conservation Areas (CAs) should be sympathetic to those characteristics that make CAs special.

Policy CS5 states that the majority of future development will be located in areas well served by local services to reduce the need to travel, where people can gain convenient access to public transport services for longer journeys and where local journeys may be undertaken on foot or by bicycle

Policy CS10 states that new development will be directed towards areas at the lowest risk of flooding within the District.

Policy CS8 (d) states that the Council will protect, manage and enhance the District's biodiversity, and avoid demonstrable harm to habitats or species which are protected or which are of importance to biodiversity.

CS17 lists development required for renewable energy production alongside agriculture, woodland management, sport and recreation and local food initiatives as being appropriate development in the Countryside. CS17(c.) states that rural development must be located and designed in a way that is sensitive to its landscape setting, safeguards important views, and protects the landscape setting of individual settlements.

Harborough District Local Plan (HDLP)

The HDLP was adopted in 2001, with 2006 as its original end date. As a result of the Planning and Compulsory Purchase Act 2004, the Government allowed some Local Plan policies to be 'saved' beyond 27th September 2007 until the Local Development Framework (LDF) is adopted, and some of these have been retained until such time as an Allocations DPD (and other necessary DPDs/SPDS) has been adopted. The only retained policy of particular relevance to this application is RM/8 (Sites of local ecological or geological interest).

Planning Considerations:

In light of this policy overview, especially paragraphs 93 to 98 of the NPPF and policies CS9 and CS17 of the Core Strategy, current planning policy is clearly very supportive of the principle of renewable energy development. Each proposed development will present material considerations which must be assessed individually and then balanced together before making a final judgement.

Contribution to Renewable Energy Generation

When determining planning applications for development of the type proposed it is reasonable and proper to attach weight to the contribution they would make to the region's renewable energy generation. The proposal would make a relatively small contribution (when compared, for example, to Low Spinney and Swinford), but nonetheless this is a material consideration which weighs in favour of the proposal.

Landscape:

The site is located in the countryside near to the settlements of Knaptoft and Mowsley. The application site forms part of a field and is relatively elevated, being approximately 170 metres above sea level. The field slopes away towards the West and there are expansive views from the site in this direction and to the North West and South. Levels rise towards a highpoint approximately 400 metres to the North of the site where there is a mast sited on land at 177 metres above sea level. Beyond this high point levels fall away. To the East of the site Levels rise slightly to approximately 175 metres, once beyond this higher point, levels then fall, allowing expansive views to the North and East.

The submitted LVIA acknowledges there would be significant effects on:

- The character of the landscape up to 1 – 1.5km from the wind turbine, including a small part of the Laughton Hills landscape character area (LCA) and a small part of the Lutterworth Lowlands LCA.
- The visual amenity of residents in properties up to approximately 2.8km from the turbine with open views of the turbine.
- The visual amenity of users of the local rights of way within approximately 1.3km.
- The visual amenity of motorists on a short section of the A5199 in the immediate vicinity of the proposed turbine.

The turbine, at a height of 79 metres to the blade tip, would be readily discernible in the landscape from a variety of vantage points and would have a demonstrable and significant visual impact. There are clear and applicable policy criteria on landscape and visual impacts to instruct decision makers, aided by the *Harborough District Landscape Character Assessment (2007)*¹ (HDLCA).

The Harborough District Landscape Character Assessment (2007) (HDLCA) identifies the site as being within the Laughton Hills which has the following key characteristics:

- Distinct ridgeline of rolling hills with steep sides
- Predominantly rural character with areas of woodland
- Arable farming predominantly on the flatter areas to the south
- Pasture on the hillier areas to the north
- Scattering of small attractive villages and hamlets

¹ Harborough District Landscape Character Assessment (2007)

The HDLCA describes Laughton Hills capacity to accommodate development as Low to Medium stating: *‘The Laughton Hills are a rural area with little existing development. In general the character area has low capacity to accept further development. Along the route of the A4034 and away from the visible plateaus of the north there would be some scope for carefully considered residential development that fits within the existing infrastructure of the villages and the topography of the surrounding landscape’*

An HDLCA Key Issue is:

‘The rural character of the landscape, both arable and pasture, would be threatened by development. Any development would need careful siting which is sympathetic to landscape setting and landform in particular.’

The LVIA confirms it has been produced in accordance with good practice guidelines. It assesses various development stages and includes visual receptors with reference to photo montages. It identifies at 3.73 a significant adverse effect on the Laughton Hills area within a 1-1.5km zone. A significant effect is not identified beyond this zone. A similar adverse effect is identified within the same zone of the Lutterworth Lowlands area.

The LVIA refers to the appeal decision for nearby Portly Ford turbine (also referred to as Sparrow Lodge, Pincet Lane turbine). It states that *‘The findings of the Inspector in her appeal decision ...indicate that the character and features of the local landscape could acceptably accommodate a wind turbine of a similar size [to that proposed]...As a result it can be concluded that the Secretary of State considers this part of the country has capacity to accommodate wind energy developments.’* The Portly Ford turbine was dismissed on residential amenity grounds and whilst the inspector did not dismiss the appeal on landscape impact, she did conclude that the turbine would result in visual harm, however felt that the harm was outweighed by the benefits of the proposal. That proposal is considered to relate closely to this application in terms of the nature of the proposed turbine and its generating capacity (that proposal was for a 500kw 77metre turbine), however visits to both sites demonstrate each is quite different. The site of this proposal has significantly more expansive views than the Portly Ford appeal site. On individual merit this proposal is considered to be harmful to landscape character and visual amenity. The Portly Ford decision does not alter this conclusion.

A recent decision refused by Harborough District Council and then dismissed at appeal was for the erection of a single 47m high wind turbine at Valley View Farm, Red Lodge Road, Tilton On The Hill. In paragraph 10 of the Inspector’s decision (Appeal Ref: APP/F2415/A/10/2134781), Inspector Elizabeth Fieldhouse stated:

“Other radio masts and transmission pylons in the vicinity have been taken into account but rather than providing a justification they demonstrate the impact of such developments and/or are closely associated with other buildings, structures or planting.”

As previously noted there is a mast approximately 400 metres to the North of the site, however the turbine would appear substantially higher in the landscape and therefore the existence of the mast would not be considered to negate the visual harm of the proposed turbine.

It is considered that in this rural setting the proposed turbine will impose itself as a result of its height and the moving turbine blades and would be seen from local roads and footpaths. It would appear as a relatively prominent structure with moving blades in a rural setting, which because of its undulating character and relative freedom from intrusive artefacts would appear visually intrusive. The submitted LVIA supports that a significant adverse effect will result in a 1-1.5km zone. It goes on to conclude that beyond these zones impact is not significant.

Core Strategy Policy CS17 accepts that renewable energy development is appropriate in the countryside, subject to compliance with relevant strategy policies. Policy CS17(c) requires sensitivity to landscape settings and sets out particular considerations for the landscape character areas (in this case the Laughton Hills character area). First among these at CS17(c)(i) is the need to protect and, where possible, enhance the character and quality of the landscape. In view of the intrusive nature of this development in this setting this policy cannot be said to be respected.

From most viewpoints the turbine would be viewed against the background sky. For this reason the turbine is proposed to be off white with a semi-matt finish to minimise visibility and reflection. However, notwithstanding this it is considered that the turbine will still visually harm the character of the landscape for the reasons set out above.

Compliance with CS9 is not reliant on the LVIA or HDLCA but they are helpful material considerations.

Cumulative Impact

Swinford and Low Spinney wind farms can be seen from the site, however it is not considered that they would result in a harmful cumulative impact, due to the distances between the proposal and these wind farms. Two 17.7 metre wind turbines are permitted immediately to the North of the Cottage Farm, Welford Road, however due to the scale of those wind turbines, it is not considered that the refusal of the application on cumulative impact is warranted. In this respect the application therefore complies with Policy CS9 of the Harborough District Core Strategy.

Visual Intrusiveness and Impact to residential amenity:

It is a well held planning principle that there is no “right to a view” such that an attractive or cherished outlook from a private property can be protected from development that would adversely affect it. The fact that the proposed wind turbine would be seen from a number of dwellings in the surrounding area, and in some cases would be moderately prominent and would have some effect on countryside views, is not determinative in itself. A change in the view is simply that and how it is perceived depends in part on how the viewer is disposed to the development in question².

However, private and public interests may coincide where a proposal would have such a severe adverse impact on the outlook from a property that it would make it a significantly less attractive place to live, as perceived by a reasonable observer without strong views for or against the type of development in question. In such a situation, protecting the amenities of a dwelling may be a legitimate and material planning consideration.

The Inspector’s comments at South Cambs and Langdon, Dover, are helpful in this regard:

² APP/E2530/A/08/2073384

12.34 “...the outlook from private property is a private interest, not a public one, and the public at large may attach very different value judgements to the visual and other qualities of wind turbines than those who face the prospect of having to live close to them. Equally, however, people pass through a diverse variety of environments when going about their daily lives, whether by car or when using the local rights of way network, and I find nothing generally objectionable in turbines being part of that broad experience” (South Cambs³)

66. However, when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It is not in the public interest to create such living conditions where they did not exist before” (Langdon, Dover, decision 28.04.09⁴)

Thus the size and scale of the proposal and its relationship to nearby amenities must be considered in order to assess, for example, any overbearing or oppressive effect. The turbine would undoubtedly be visible from residential properties in nearby villages as demonstrated by the LVIA. There would be more significant views from those properties closer to the site including those closest properties; Warren Farm, The Cottage Farm, Mowsley Chase Farm, Mowsley lodge and Knaptoft Lodge Farm. However after considering the location and orientation of these dwellings, it is not considered that this impact would be so grave as to lead to unacceptable harm to residential living conditions.

Historic Environment:

Cultural heritage features include built features, historic landscape features and archaeological remains, whether earthwork monuments, industrial remains, or buried remains of human activity. The submitted Cultural Heritage and Archaeological Report identifies that the highest levels of impact would be on the two Scheduled Ancient Monuments within 2km of the site and this would be a minor impact. Four other assets would experience a minor/negligible impact. Subject to no adverse comments being received from English Heritage and LCC Archaeology Team, it is not considered that overall, the proposal would adversely affect the character or setting of any heritage asset such that the refusal of the application on those grounds would be justified, although the identified impact does provide some support to the refusal of the application. On balance it is considered the application complies with NPPF paragraphs 126-139.

Ecology and Ornithology:

The site is situated in an agricultural landscape. The ecological survey submitted states that ‘The single turbine proposed is unlikely to have any significant impacts [on populations of protected species].’ Subject to satisfactory comments from LCC Ecology Team, the proposal would not be considered to have an unacceptable adverse impact on habitats or protected species.

Highway safety:

³ APP/W0530/A/07/2059471

⁴ APP/X2220/A/08/2071880

It is noted that representations received raise strong concerns regarding distraction to drivers and Highway safety impact. The local Highway Authority (LHA) have been consulted regarding the proposed development. No objections have been received subject to conditions. Conditions request further information prior to works commencing on site with regards to routeing and the access. The application would therefore accord with Policy CS5 of the adopted Core Strategy.

Noise and Impact to health:

Given the NPPF's relative silence on this matter (paragraph 123 is its sole reference to Planning and Noise), the Companion Guide to Planning Policy Statement 22: Renewable Energy (PPS22), issued in December 2004, states that the 1997 report by ETSU⁵ for the Department of Trade and Industry (DTI), "*The Assessment and Rating of Noise from Wind Farms*" (ETSU, 1997), should be used to assess and rate noise from wind energy developments.

Since the release of the ETSU guidance there has been further work undertaken into the effects of noise from wind farms commissioned by both the DTI and DEFRA. Following the release of reports into wind turbine noise undertaken by Hayes McKenzie and Salford University the Government issued a robust advice note in 2007 stating that ETSU-R-97 should continue to be followed for the assessment of noise from wind farms.

Noise from turbines is measured in accordance with a specific methodology in ETSU. The recommendations of this report established accepted background noise levels and the extent to which they may be reasonably exceeded, i.e. by setting a 5 dB (A) level above background levels (at both day and night) at the nearest noise sensitive properties.

In successive appeal cases⁶ since Feb 2009, Inspectors have confirmed that ETSU-R-97 should be used for the assessment and rating of noise from wind farms, and restated the guidance of the Companion Guide to PPS22: "*There is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health*" and it is not considered that officers are in a position to disagree with Inspectors' findings.

The submitted noise assessment concludes that the proposed turbine noise level at all residential properties meets the noise limits as described in ETSU-R-97 and the turbine could comply with a planning condition limiting noise in high wind conditions. The Councils Environmental Health Officer does not object to the proposal, subject to a suitable condition to control noise and the proposal is therefore considered to accord with Core Strategy Policies CS9 and CS11 of the Core Strategy, and the NPPF, in this regard.

Interference and Shadow flicker:

If a reduction in television reception quality occurs in the surrounding area, it is most likely to be noticed when the wind energy development becomes operational. To mitigate this, a planning condition might be imposed⁷, requiring the applicant to assess current television signals in advance of development and take measures necessary to mitigate post-development where effects are attributable to the wind energy development. However,

⁵ ETSU-R-97 was written by a Noise Working Group (NWG) of developers, noise consultants, EHOs and others set up in 1995 by the DTI through ETSU (the Energy Technology Support Unit).

⁶ Langdon (ref as 28), Market Drayton (APP/L3245/A/08/2088742) and Clacton-on-Sea (APP/P1560/A/08/2088548)

⁷ South Cambs appeal decision (APP/W0530/A/07/2059471)

there is no evidence that this is required and therefore a commensurate approach to this proposal. Such a condition might require the applicant to meet the cost of investigating and rectifying any problems should they arise.

Shadow flicker occurs when turbine blades intersect the line of sight between a window of a building and the sun, causing a flickering effect in the affected room. The probability of this happening and its severity depends on a number of factors including: the relationship between the turbine, the dwelling and the path of the sun; the height of the turbine, rotor diameter and its distance from the dwelling; the time of year; and the proportion of daylight hours when the turbine is operating.

In the UK, only properties within 130 degrees either side of north, relative to the turbines, can be affected. Generally the residential property must also be within a distance of 10 times the rotor diameter of the turbine. Due to the distance of nearby third party properties from the proposed turbine, the proposal would be unlikely to be considered to result in shadow flicker.

Impact to horses/equestrianism:

The closest bridleway to the site begin on the opposite side of the A5199 and would be approximately 200 metres from the turbine. Due to the distance and the separation by the busy road, it is not considered that there would be a significant harmful impact to horses/equestrianism.

Decommissioning:

It seems reasonable to assume that decommissioning noise would be generally less or similar to that experienced during the construction period. On this basis noise relating to the decommissioning of the wind energy development may also be perceptible, but would also be limited by restricting working hours and transport routes, and could be controlled via condition.

Other Issues:

Concern has been raised in representations with regards to air safety, however comments have been sought from appropriate consultees and these have not objected to the proposal.

Conclusion:

Core Strategy policy CS9 and national (NPPF paragraphs 93 to 98) planning policies establish a welcoming stance to renewable projects in general where environmental, economic and social impacts can be addressed satisfactorily. The broad thrusts of national planning guidance acting in combination with adopted Core Strategy and saved local plan policies related to development and open countryside provide the policy basis for the determination of applications for wind turbine proposals.

The need to maintain continuity and security of energy supply nationally, regionally and locally in the face of diminishing resources of fossil fuels is indisputable. More particularly, wind energy is an integral component of the Government's desired energy mix for reasons of diversity and security of supply, and sustainability. Whether the claimed output and carbon savings from this scheme are achieved, compliance with Government aims is not in question. Furthermore, The Framework also affirms that the fact that a target has been

reached should not be used in itself as a reason for refusing planning permission for further renewable energy projects.

As discussed above, the electricity generation / renewable energy delivery benefits offered by the development are of significant weight. Notwithstanding this, the concerns regarding the adverse countryside impact is such that permission should be refused.

Note to applicant

This decision has been reached taking account of 186 and 187 of the Framework. A revised proposal which overcomes the highlighted concerns may be viewed more favourably.

13/00185/FUL – Fleckney

Erection of two retail units at Car Park,
High Street

Applicant: Everards Brewery

Target Date: 22/04/13

Recommendation

APPROVE for the following reason, subject to the appended conditions

The building hereby approved will respect and enhance the local character, building materials and distinctiveness of the area in which it is situated. The scale and design of the development will not damage the character of the area and residential amenity will be safeguarded. The use is appropriate in the location it is proposed and will enhance retail provision in a Local Centre. The proposal is therefore considered to accord with Harborough District Core Strategy Policies CS6, CS11 and CS17 and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account 186-187 of the National Planning Policy Framework.

Site:

The application site is presently a car park situated between a Post Office and a Chip Shop and opposite a Public House. Planning permission has previously been granted for the development of the site –

07/00792/FUL Erection of 2 retail units and 2 dwellings and alterations to the public house car parking layout (revised scheme of 06/00667/FUL)

10/00040/ETF Erection of two retail units and two dwellings and alterations to the public house parking layout (extension of time of 07/00792/FUL)

The Proposal:

The application is for the erection of two retail units.

Reason for going to Committee:

The application is being considered at Planning Committee as LCC Highways have objected to the scheme.

Policy

Core Strategy:

CS6 Improving Town Centres and Retailing

CS11 Promoting Design and Built Heritage

CS17 Countryside, Rural Centres and Rural Villages

National Planning Policy Framework

Consultations / Representations:

LCC Archaeology:

No objections subject to conditions.

Parish Council:

Objects -

1. The size, mass and high roofline of the proposed development is not in keeping with the surrounding street scene, particularly the Post Office and Fish Bar.
2. The design and detail of the proposed development is not in keeping with the surrounding street scene and does not reflect the local vernacular.
3. No provision has been made for staff and operational parking. The requirement for a development of this size is a minimum of four spaces as set out in the County Council Highway Requirements for Class A1 Shops.
4. No provision has been made **within** the site for deliveries and unloading as required by the County Council Highway Requirements for Class A1 Shops.
5. No provision has been made to replace the loss of car parking for the Crown Public House, this site being used extensively, particularly in the evenings, by visitors to the Public House. The loss of this area of parking will mean that the parking arrangements for the Public House will fall below the County Council's parking standards for such developments.
6. The size and mass of the building will form a dark pedestrian walkway between the proposed new building and the Post Office with its inherent risks.
7. The siting of the proposed development up to the edge of the existing pavement line will restrict pedestrian movements along this stretch of pavement between Main Street and the Co-op entrance and will force pedestrians on to the highway with the loss of this midway 'passing point'.

LCC Highways:

1. The proposal if permitted will have a very serious impact in relation to parking on High Street. The car park albeit within control of the applicant and being completely private is used constantly by the public as they visit nearby retail units and local facilities. The reality of taking away this car park will undoubtedly lead to on street parking occurring within the vicinity of the sites frontage to High Street. On street parking will be generated by the post office, the doctors, the chip shop amongst others and then of course by the proposed retail units which do not have any off street parking provision of their own. This situation will cause an unacceptable parking problem and highway safety issue along High Street which is relatively narrow and is a bus route. The H.A anticipates and accepts that some displaced parking and newly generated parking by the proposed units will go into the co-op car park and some to the public car park approximately 60m away to the south but there will still be a significant increase in on street parking.
It is accepted that the applicant could remove the right for people to park on the car park at any time and whilst this would lead to displaced parking which would cause a nuisance, the H.A's point here (which we can contest) is that the proposed retail units do not have any car parking of their own.
2. This application needs very careful consideration by all stakeholders and the H.A will be minded to resist this current application as submitted on a lack of

car parking and a detrimental highway impact. If however the applicant were minded to amend the scheme to provide maybe one unit and a car park then the H.A may look more favourable upon the proposal. In addition the applicant will need to identify and promote in conjunction with the H.A a comprehensive package of on street parking controls (yellow lining) along this section of High Street to mitigate against the impact of the proposal. The H.A respectfully requests that the L.P.A refrain from determining this application until further discussion has taken place.

1 letter of objection:

Not in keeping with the nearby buildings - too close to the very narrow busy road – no parking for cars, delivery lorries will have to park in the road thereby blocking it and the pavement. Creation of a narrow dark alleyway next to the pub and chip shop - Is this really desirable?

Other Information

History:

10/00040/ETF Erection of two retail units and two dwellings and alterations to the public house parking layout (extension of time of 07/00792/FUL) – Permitted

07/00792/FUL Erection of 2 retail units and 2 dwellings and alterations to the public house car parking layout (revised scheme of 06/00667/FUL) – Permitted

Planning Considerations:

Policy Assessment:

CS6 – Retain and enhance retail and service provision in Local Centres (Fleckney is a Local Centre)

CS11 – Development should be well planned to: i) Incorporate safe and inclusive design, suitable for all to access; ii) Make the most of local built and natural assets; iii) Be of a scale, density and design that would not cause damage to the qualities, character and amenity of the areas in which they are situated; iv) Ensure that the amenities of existing and future neighbouring occupiers are safeguarded; v) Reflect the landscape or streetscape in which it is situated and include an appropriate landscaping scheme where needed; vi) Enable adaptation, allowing for mixed uses with the potential to change use where appropriate; vii) Enable adaptation, ensuring suitability for today's users and capability for alteration to suit users in a future changing climate; viii) Where appropriate, encourage travel by a variety of modes of transport; ix) Minimise waste.

CS17 - Rural Centres will be the focus for rural affordable and market housing, additional employment, retail and community uses to serve the settlement and its rural catchment area. Proposals will be supported which reduce the need to travel from rural areas such as: i) Development for permanent/mobile service or shopping provision.

Principle of development:

The principle of development is acceptable as the site is within the Limits to Development and Shopping and Business Area of Fleckney. Fleckney is also a Local Centre as detailed in Policy CS6, which states that retail and service provision should be retained and enhanced in Local Centres. In addition to this Policy CS17

states that proposals will be supported which reduce the need to travel from rural areas, such as development for shopping provision and that Rural Centres, of which Fleckney is one, will be the focus for additional retail uses to serve the settlement and its rural catchment area. The provision of two new retail units in this location therefore accords with Policies CS6 and CS17 of the Core Strategy.

Design and Impact upon the character of the area:

It is considered that the design and siting of the proposal is in keeping with the street scene as fronts the highway like the retail units either side. The building does seem high but this is as approved previously. The ridge line is set further back than the neighbouring properties so this will reduce its dominance. The proposal is therefore considered to comply with Policy CS11 of the Harborough Core Strategy.

Residential amenity:

It is not considered that residential amenity will be affected. The site is within a village centre location between a Post Office and Fish shop and opposite a Public House. Overall it is considered that the proposal will safeguard existing and future residential amenity and be in accordance with Policy CS11 of the Harborough Core Strategy.

Highways and parking considerations:

Highways have raised concerns about the loss of parking but development of this site has been approved previously and the car park isn't public so could cease being available for parking at any time. In addition to this the site is within the centre of a village near to other car parks. It is therefore considered that the proposal complies with Policy CS11 of the Harborough Core Strategy.

Conclusion:

It is considered that the proposed retail units are acceptable in this location and in accordance with Core Strategy Policies CS6, CS11 and CS17.

Conditions / Reason:

Reason for approval:

The building hereby approved will respect and enhance the local character, building materials and distinctiveness of the area in which it is situated. The scale and design of the development will not damage the character of the area and residential amenity will be safeguarded. The use is appropriate in the location it is proposed and will enhance retail provision in a Local Centre. The proposal is therefore considered to accord with Harborough District Core Strategy Policies CS6, CS11 and CS17 and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account 186-187 of the National Planning Policy Framework.

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. **Reason:** To accord with the provisions

of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until a schedule indicating the materials to be used on all external elevations of the approved building has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity. Reason: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.

3. The site shall be used for A1 use and for no other purpose. Reason: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

4. No demolition/development shall take place/commence until a programme of archaeological work (Strip, Plan and Record excavation) 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:

- oThe programme and methodology of site investigation and recording

- oThe programme for post investigation assessment

- oProvision to be made for analysis of the site investigation and recording

- oProvision to be made for publication and dissemination of the analysis and records of the site investigation

- oProvision to be made for archive deposition of the analysis and records of the site investigation

- oNomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason: To ensure satisfactory archaeological investigation and recording.

5. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4. Reason: To ensure satisfactory archaeological investigation and recording.

6. 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 4 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured. Reason: To ensure satisfactory archaeological investigation and recording.

Notes to Applicant:

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying

with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.

13/00211/FUL – Fleckney
Bellway Homes

Erection of 28 Dwellings and associated
works, Land at Leicester Road, Fleckney

Target Date: 31/5/13

Recommendation

APPROVE subject to the appended conditions and obligations set out in report secured by Section 106 Agreement or similar undertaking and for the reason:

Justification

The proposal would make a contribution to the delivery of housing, including affordable housing for Harborough District, without having an adverse impact on interests such as highway safety, residential amenity, cultural heritage or flooding. . The proposal generally satisfies the aims and objectives of the Framework, and the grant of permission will not seriously undermine the likely achievement of policy objectives including the Council's adopted Core Strategy and Planning for Growth (March 2011). Whilst introduction of housing does impact upon the countryside, being outside defined village limits to development, the effect upon the character of the surrounding countryside is not so harmful to warrant refusal of consent given the benefits of the scheme, and notwithstanding the district currently demonstrates a 5 year supply of housing, a departure from to Policy CS/2 of the Harborough District Local Plan is justified. This decision implements 186 & 187 of the Framework.

Site:

The application site is located in the centre of Fleckney on the east side of High Street and on the south side of Leicester Road. The site mainly consists of relatively flat overgrown piece of pasture land with a stream running through the site south-west to north—east. There is also a combined sewer running from the corner of the site to the ditch, then along the ditch and beyond. The application site also consists of grassy fields to the north. The site is defined by hedgerow to the road side and northern boundary, plus timber post and rail fence to the south-eastern boundary and to the allotments. There are two Tree Preservation Order trees on and close to the site. A pine adjacent to High Street and Horse Chestnut tree beyond the eastern boundary.

The site is bounded by allotments to the north, arable fields to the north/north-east. Residential properties to the north (older properties-Leicester Road) and east (1980's properties -Forge Close and older properties -Kilby Lane). To the south are residential barn conversions and 1980's properties on High Street. High Street is slightly higher than the application site. Leicester Road rises to +3metres higher than the application site as it approaches the bend. Fleckney does not have a Conservation Area and the site is outside the defined limits of development.

The Proposal:

The application relates to the erection of a 28 dwellings, with parking and garaging with an access point off High Street serving all the dwellings. A new storm water attenuation lagoon is proposed within the site. The site is an irregular shape with a site area of 0.98ha. There are 20 market houses proposed, and 8 affordable dwellings which are split into two areas.

Plans/bedroom No.	1 bedroom	2 bedroom	3 bedroom	4 bedroom	5 bedroom
Proposed	2	6	6	13	1
Revision	2	6	6	14	0

A new 2m wide footpath to frontages on High Street and Leicester Road is proposed. Plus two pedestrian crossing improvement works. Partly across the site is a 10m wide sewer easement which then links up with the proposed main road. The open ditch is to be diverted through the site, as an open ditch. The roadside hedgerow to High Street is to be removed and re-planted. The hedgerow to Leicester Road is to be retained.

The previous scheme for 31 dwelling was refused on 18th December 2012 for the following reasons:

'The proposal by virtue of intrusion of housing into countryside, and its design and layout will detract from the character and appearance of the area and is contrary to Harborough Core Strategy policies CS2, CS11 and CS17. The delivery of housing, including affordable housing does not outweigh this conflict.'

The applicants appear to have sought to address issues previously raised by the following significant changes to the scheme:

- Diversion of the ordinary watercourse;
- Affordable housing fronting Leicester Road is now accessed off the proposed access road through the development;
- Omissions of the LAP play area and the re-location of the lagoon within the site; and
- Reduction in numbers of dwelling proposed from 31 to 28.

Amendment A:

- 43m visibility splay shown to the north;
- Plot 12 changed from a 5 bed property with double garage to 4 bedroom with a single garage;
- 5 Parking spaces between Plots 10 and 12 have been broken up and reduced to 4; and
- Plot 4 handed to reduce overlooking;
- Substitution of house types from Kibworth to Laughton and Orton to Twyford (to enlarge the porches).

Policy

National:

The Framework was published in 27th March 2012 and replaced many of the planning policy guidance/statements. Para 14 explains what the presumption in favour of

development means in terms of decision making and para. 17 sets out the core planning principles.

Housing Land Supply Position

The 27th March 2012 formal publication of the NPPF deleted PPS3. However, the principle of LPAs maintaining 5 year housing supply targets has been carried into the NPPF (note Paras. 47-49):

Local Planning Authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5%...”

The Council’s latest housing position:

The Council issued its most up to date Supply of Deliverable Housing Sites, which includes the NPPF advised 5% additional buffer. This gave a 31 September 2012 position of a 5.55 year supply of housing land.

Community Infrastructure Regulations 2010:

The necessity test for planning obligations is a statutory requirement. Obligations must be necessary in planning terms to make development acceptable, directly related to the development, fairly and reasonably related in scale and kind of proposal

Safer Places – ODPM - (April 2004)

Planning for Growth (March 2011)

The Development Plan:

Section 38(6) of the Town & Country Planning and Compulsory Purchase Act 2004 requires that all determinations under the Act are made in accordance with the Development Plan unless material considerations indicate otherwise.

Harborough District Core Strategy:

The Harborough District Local Plan was adopted in March 2001 and provided development polices for the District up to 2006. In September 2007, the Government (in line with the Planning & Compulsory Purchase Act 2004) allowed some of the policies in the Local Plan to be ‘saved’ whilst work on the Local Development Framework Core Strategy continued, in order to avoid policy vacuum.

On 14th November 2011 the Harborough District Core Strategy was formally adopted, thereby replacing the majority of the Local Plan. Certain Local Plan Policies were, however, retained as part of the Core Strategy adoption. The following HDLP Policies have been retained as part of the Core Strategy and are relevant: - Policy HS/8 Limits to development.

Policy CS1 sets out the spatial strategy for Harborough, which is to *“maintain the District’s unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services”*. Policy 1 sets out a

series of criteria that the Council considers necessary in order to achieve the objectives of the spatial strategy to 2028.

Policy CS2 deals with delivering new housing and advises that the District's total housing requirement of 7,700 dwellings will be provided in sustainable locations, such as Fleckney is defined as a rural centre. Within rural centres and villages at least 2,420 dwellings are proposed. The up to date figure for additional houses that remain to be planned for in rural centres is 429 (March 2012).

The Policy states that the mix of housing types provided as part of any new development should be informed by the most up to date Strategic Housing Market Assessment (SHMA) or other local evidence. The Policy also states that "*Limits to Development boundaries around settlements will be used to shape their future development*" and that "*Limits to Development will be reviewed through the Allocations DPD in order to enable the scale of new housing envisaged to be accommodated.*" The Policy clarifies that "*Housing development will not be permitted outside Limits to Development (either before or following their review) unless at any point there is less than a 5 year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.*" Para.5.9 in explanation text states rural centres will be the focus for housing development.

Policy CS3 deals with delivering housing choice and affordability and sets out a requirement that all residential developments within the District will be required to contribute towards meeting affordable housing needs. A minimum of 30% of the total number of dwellings will be affordable within the 'Blaby border settlements area (unless lack of viability can be demonstrated).

Policy CS5 advises that the majority of future development will be located in areas well served by local services to reduce the need to travel, where people can gain convenient access to public transport services for longer journeys and where local journeys may be undertaken on foot or by bicycle.

Policy CS8 seeks to protect and enhance Green Infrastructure (GI) through securing a high quality, accessible and multi-functional GI network across both rural and urban areas of the District, which contributes to healthy lifestyles and a rich, diverse natural environment.

Policy CS9 considers measures to address climate change.

Policy CS10 considers measures to address flood risk.

Policy CS11 promotes good design standards in all development and protection and enhancement of built heritage.

Policy CS12 deals with delivering development and supporting infrastructure and seeks to ensure that appropriate measures are taken to mitigate the impacts of development and ensure that the necessary infrastructure to accompany development is provided.

Policy CS17 deals with development in the countryside and rural village and centres. Fleckney as a rural centre along with three other rural centres in the District will be the focus for additional housing beyond that already built or committed.

Preparation of new Local Plan for Harborough District including APPENDIX B Review of Core Strategy: NPPF Compatibility (3rd December report to Council 2012)

Supplementary Planning Guidance

Supplementary Planning Guidance supplements the policies of the Local Plan. They were adopted by the Council in March 2003 following public consultation. (Following Core Strategy adoption and pending Development Control SPD preparation and adoption, SPGs have been 'saved'/retained by Council as a material consideration, and it therefore remains appropriate to consider the advice in SPGs, where applicable.)

SPG Note 1 – Design Principles to be Applied in Harborough District

SPG Note 2: Residential Development – Major Housing Sites

SPG Note 9: Landscape & New Development

SPG Note 10: Trees & Development

SPG Note 11: Hedges & Development

SPG Note 13: Crime Prevention & Reduction

SPG Note 16: Requirements for the provision of land for outdoor play space in new residential developments

SPG Note 20: Monitoring of Housing Land

Planning Obligations Developer Guidance Note (September 2009)

This document sets out the Council policy for securing Section 106 contributions.

Assessment of Local Community Provision and Developer Contribution (October 2010)

This assessment considers 'community facilities' that are not already covered by other elements of the Council's Developer Contributions Guidance such as libraries, education, outdoor recreation, play areas etc. In particular it assesses indoor community facilities including village halls and indoor sports provision. It *summarises: The village hall is well used and any growth is likely to require additional spaces for indoor community use. The aim will be to encourage the refurbishment of the current village hall to cater for the new growth and expand existing sports facilities.*

Local Development Framework – Evidence Base

Landscape Character Assessment

Harborough District Landscape Character Assessment was carried out by the Atkins (Sept 2007). Fleckney is within Lutterworth Lowlands Landscape Character Area. This assessment advises that the development site consists of land which is identified as 'Appropriate for development' in landscape terms.

Leicester & Leicestershire Strategic Housing Market Assessment (SHMA)

The SHMA identified a need for 264 affordable dwellings in the District per annum up to 2016 (or 75% of the total annual housing requirement). The SHMA however, also

recognised that a 75% affordable housing target is unrealistic due to viability issues. The Council's target is to achieve at least 90 affordable dwellings per annum.

Strategic Housing Land Availability Assessment (SHLAA)

The Strategic Housing Land Availability Assessment (SHLAA) was published in September 2010 and updated in 2011. The report is intended to identify sites with potential for housing development, assess their potential and assess whether they are likely to be developed. This helps the Council to develop a more accurate picture of the potential housing land supply situation in the District.

Town/Parish Plans

Fleckney Parish Plan 2010

Consultations / Representations:

(Representations received are available to view in full on request)

Highway Authority:

No objection subject to conditions relating to visibility splays, pedestrian crossing location, pedestrian splays, gradients, wheel cleaning, routing of construction vehicles, construction vehicle parking.

The applicant has proposed to construct new footways around the site frontage which is acceptable to the Highway Authority. New pedestrian crossing points are proposed, however the Highway Authority is of the view that one of the crossing points should have a central pedestrian refuge to improve pedestrian safety (particularly with children walking to school). It considers that the best location for this crossing is at the High Street arm of the mini-roundabout, because

- sufficient highway width is available to provide a central pedestrian refuge
- it is on the desire line for walking to the nearby primary school
- the refuge will also act as a traffic calming feature.

This location will need to be verified by a plan to be approved showing the layout and vehicle tracking, and an accompanying safety audit.

Minor concerns related to shortfall in spaces, dimensions of garage, visibility splays, private drives and refuse vehicles and traffic calming, some have been addressed on the revised plan. Parking is only short for 3 two bedroom affordable housing units, the garage to plot 12 has been changed to a single garage, the correct visibility splays have been shown on the revised plan, if necessary refuse bins can be dragged along the private driveway and sited on the landscape strip at the turning head and traffic calming measures if required are dealt with at adoption stage.

Leicestershire County Council (Ecology):

No objection. Could small sections of hedgerow to be removed be retained?. Recommend that new hedgerow is mix of locally native species and the lagoon hold some water at all times of the year.

Leicestershire County Council (Archaeology):

No further work required on the site.

Environment Agency:

As the site area is marginally less than 1 hectare the Environment Agency would not normally comment, however, given they were consulted on the previous scheme, they have been notified. Require further information before making a substantive response.

Environmental Health (HDC):

No objection subject to risk based land contamination assessment

Severn Trent and HDC Drainage

No objection subject to condition relating to surface water and foul sewerage.

LCC Water management:

To be reported

Section 106 requirements:

Given the size of the site proposed for residential development the application triggers a requirement for Section 106 obligations.

Highways:

To comply with Government guidance in the NPPF, the CIL Regulations 2011, and the County Council's Local Transport Plan 3, the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use.

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- 6 month bus passes, 2 per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £325 per pass (NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- New/Improvements to 2 nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263 per stop.
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120 per display.

Affordable housing:

30% of total affordable housing (Blaby border settlements (ie. 8 out of 28 dwellings)
Tenure split 5 rents (3 social rent/2 affordable rent) and 3 Intermediate housing.

Following detailed negotiations with eh agents on house type and tenure the requirement is now:

Tenure split 5 rent and 4 Intermediate housing (social rent 2 x 1 bed maisonette, 1 x 2bed house. Affordable rent 2 x 2bed house and intermediate tenure 4 x 2 bed houses).

Maintenance contribution to on site open space: to be reported

Enhancement/New Provision off-site: to be reported

Education:

Primary and High school contributions are not required as there would be a surplus of spaces after development.

Upper school contribution: This site falls within the catchment area of The Robert Smyth School. The School has a net capacity of 1351 and 1452 pupils are projected on roll should this development proceed; a deficit of 101 pupil places (of which 98 are existing and 3 are created by this development). There are no other upper schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified.

In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £47,723.42. Based on the table above, this is calculated the number of deficit places created by the development (2.6) multiplied by the DFE cost multiplier in the table above (£18,355.16) which equals £47,423.42.

This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at The Robert Smyth School.

Contribution = £47,723.42

Library:

1 bedroom houses/apartments @ £27.18 per house/apartment

2 bedroom houses/apartments @ £54.35 per house/apartment

3/4/5 bedroom houses/apartments @ £63.41 per house/apartment

Contribution =£1,648.66

Community facility:

Charge for refurbishment (Fleckney) is based on:

1 bed £325

2 bed £433

3 bed £498

4 bed £650

5+ bed £866

Monitoring fee and bond.

Parish:

Objects (1) Policy CS2- The Strategic Housing land Availability Assessment 2011 has no reference of this site, therefore should not be considered for development until it has been included in a review, which it is understood to be completed in summer 2013. Therefore premature to approve this site before the full review is completed. (2) the supply of deliverable housing sites (march 2012) indicates that after taking into account other sites Land east of Northampton Road, Land north of Scraftoft campus that supply is 5.36years, this ignores any benefit from Airfield Farm (3) As there are sufficient deliverable sites throughout the District available the housing requirement over the next 5 years and this proposal is outside the existing village limits for development the application should be refused (4) market housing is

predominately 4/5 bed units (14) with 6 x 3 bed units, therefore high proportion of large dwellings, does not meet local need, the Core Strategy indicates greatest need for small and medium sized units. No evidence of local need assessment. (5) CS5 - Whilst the village has a half hourly service to Leicester and hourly serve to Market Harborough during the daytime Monday to Saturday. The proposal will therefore not contribute to any meaningful increase in bus journeys and sustain existing levels. (6) CS10 - Village centre flooded in Nov. 2000, other site may have lower flood risk (7) CS11- the site provides an open aspect and views over open countryside and give Fleckney its rural feel (8) the size and mix (1/2 storey) does not relate to nearby properties particularly Cedars courtyard, which will be enclosed detract from agricultural appearance and landscape. (9) CS17- the proposal fails to be on a scale and sensitive to landscape setting, retaining and enhancing the distinctive qualities of the landscape, it detracts from the rural nature and open aspect of the village. (10) Transport, generally the road network within the village is poor standard with only limited capacity for new development, the centre is characterised by narrow roadways and pavements and suffers from congestion at peak times, the proposal is situated close to the worse congestion points. Any increase in traffic movements will greatly increase risk to pedestrians. The County that it will investigate traffic calming measures (11) opportunities for employment are limited in the village, therefore more traffic movements.

Representations:

Objects 152 letters, representations from 102 households (1) village evolved significantly in last few years around a narrow village centre, with every development the road become more dangerous/chaotic for pedestrians and traffic (2) despite its large size the village has retained its rural feel due to unique linear layout (3) at current size village still has a small village community ethos, any development that encloses the village centre will have detrimental effect on the street scene and community spirit (4) the position and style of proposed development will significantly change the layout and character of the village, devastating to the overlook and feel of the village (5) the road through and around the village struggle to cope with the volume of traffic, various pedestrian injuries, difficulty crossing the road, cars mounting pavement (6) any new development should be on brown field/previously developed land (7) need starter homes for local people (8) insufficient off-street parking (9) 2 new pelican crossing no benefit to existing residents (10) loss of privacy and light to No.2 and 28 Forge Close and cedars courtyard converted residential barns (11) If watercourse is blocked by Bellway then other areas liable to flooding (12) access close to mini roundabout dangerous (13) thin end of wedge for other developers to extend around the back of the village (14) Loss of tree (pine local landmark) and hedgerow (15) concerned about road safety along a length of road which is currently inadequate which many pedestrians use (15) development will not allow for the expansion of the allotment which is village amenity and over-subscribed (16) increase noise pollution (17) increased lighting, fumes and disturbance (18) lagoon safety issue (19) existing facilities are not sufficient to support new comers (20) no need for larger houses (21) Appeal to extend garden area refused in similar location (22) overbearing and out of character with nearby properties (23) traffic busiest at school times therefore safety is paramount (24) better to site development where there are more realistic development opportunities (25) transport report out of touch with modern commuting families, suggest that number of vehicles and frequency of use is far higher than shown in the report (traffic report assertion of 10 additional cars at peak times is

ridiculous). (26) moved to Fleckney recently as a village where there is a Post Office at its heart and see open fields, the development will complete change the character and nature of the village (27) not got the amenities to support further growth, medical, dental, school and recreational facilities esp. under 18's. (28) since East Midlands Housing Association development increase in the level and speed of traffic down Main Street (29) becoming a small town (30) affect views from properties (31) building in the centre of the village affects peoples lifestyle and those who live in the village (32) building beyond barns building line destroys rural outlook as go through the village (33) Village school should not be any bigger as is lovely and village street could not cope with extra traffic (34) open the way to development beyond in the fields (35) impact upon local wildlife (36) double the size of the village, overwhelm the countryside. (37) loss of more fields (38) houses out of character with village (39) recent development well planned either infill, on brownfield, or within existing boundaries (40) increase in traffic will lower the quality of life in the village (41) big bonus to have open view of countryside in village centre closing this window will be detrimental to the quality of life in the village (42) do not believe that site can be developed that can eliminate any increase in risk to other highway users (43) public transport options are woeful hence car is only way to get about (44) a visit to the village centre facilities can be dangerous for elderly as can't move fast or when on a mobility scooter. (45) loss wonderful view across to the canal, would be the most profound change to the character of the village in 30 years (46) cast a shadow on the allotments (47) very little has changed from the previous application (48) village at saturation point (49) SHLAA site has not been put forward for development there are 5 other sites (50) increase lorries deliveries to shops due to increased use (51) poor visual lines caused by the s-bends compounded by the existing road junctions of Kilby Road and Albert Street at the proposed entrance to the development would cause an accident black spot. (52) Fleckney built on clay in a geographical depression, the centre of the depression is the centre of the village by the bridge over the Brook, if we continue to have heavy rain this could cause serious problems (53) in the past there has been good in-filling on brownfield land.

Additional information submitted by Agents

The following reports:

- Phase 1 Habitat survey and Ecological Appraisal;
- Flood Risk Assessment report (Feb 2013);
- Tree Survey;
- Transport statement and Supplementary report;
- Archaeological Desk based assessment and Evaluation report;
- Design and access Statement;
- Statement of community Involvement (19th March 2013); and
- Desk top Agricultural land Classification assessment.

Bellway undertook public consultation on the revised proposals having previously held two public consultation events for the initial planning application. The consultation method was a leaflet drop to 582 properties, including information on housing need, site plan, access and traffic, freepost comment card and Freephone information line.

Other Information

Public Rights of Way:

There is a right of way (C8) to the north of the site.

History:

90/1582/30 Erection of dwellings construction of estate roads and relief road and provision of open space on 17 hectares Refused 08/10/90

12/01379/FUL Erection of 31 dwelling including garaging and parking and associated roads and sewers. Provision of public open space incorporating a balancing lagoon and local play area. Refused 19/12/12

Planning Considerations:

Policy Assessment:

This application has to be assessed in the light of the relevant national, regional and local plan policies. It should be determined in accordance with the development plan unless there are material considerations that would indicate otherwise.

The fundamental issues associated with this application are considered to be:-

Principle of Residential Use

The adopted Core Strategy identifies an additional 533 dwellings remaining to be planned for as of March 2011, (updated figure is 429 for March 2012) in Rural centres and villages. Policy CS2 states that Limits to Development will be reviewed through the Allocations Development Plan Document (DPD) to enable the scale of new housing growth to be accommodated. Housing development will not be permitted outside limits to development unless at any point there is less than a five year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement. The Councils latest housing position (supply of Deliverable Housing Sites), which includes the NPPF advised 5% additional buffer, gave a 31 September 2012 position of a 5.55 year supply of housing land. Therefore the proposal is contrary to policy CS2.

However, there are a number of other issues to consider. The scale of development (28 dwellings) is compatible with the scale of Fleckney village. The Council must continue to deliver housing or the next housing figures may drop below 5 years again. Paragraph 47 of the NPPF requires local planning authorities to ensure that there is a continuous five year supply of deliverable sites within their District. To be deliverable sites need to be available, i.e. available now; suitable i.e. the site offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities; and achievable i.e. there is a reasonable prospect that housing will be delivered on the site within five years. The applicants have stated that the site is available and deliverable now to be developed. Other sites identified within the SHLAA do not necessarily mean they are deliverable as they may have access, ownership issues.

The site is considered to be well related and close to existing services within the village, access to services is within a reasonable walking distance, good range of facilities within Fleckney and beyond via sustainable modes of transport. Fleckney has all 6 of the services (food shop, GP surgery, Library, Post office, Primary school and pub) that is the basis for the village selection as a rural centre. Landscape

Character Assessment which identifies land as green "high capacity for development". The report states that the application site is well enclosed, visually linked with the current edge of the settlement, with limited views from the east and partially screened by the settlement edge. It is not an Area of separation, Green Wedge, part of a heritage site or under previous designation 'Area of Particularly Attractive Countryside'. The application site is primarily surrounded by residential properties, therefore the proposed residential use is compatible with the area.

SHLAA 2011 did not consider the site, however in the call for sites in 2012 this site was put forward, a review of these sites and SHLAA sites is underway, and will report sometime this year. Whilst this area is currently being reviewed, it is still considered appropriate at this time to assess this development proposal and would not be considered pre-mature.

Impact upon the Countryside.

Whilst the site is greenfield and provide a green open space within the centre of the village. The site is almost entirely enclosed on three sides except for the north-north-eastern edge. From many viewpoints (east, north, west) the development will be seen as part of the village given the existing housing backdrop. The allotments and fields to the north adjacent to Leicester Road (beyond the allotments and adjacent to the Sport Centre), provide green space within the village and open views of the rural area beyond the village. The site area is not significant ecologically or of agricultural value (3a and 3b=low quality agricultural land) and only 1 tree (TPO) is to be removed. As previously stated the Landscape Character Assessment states the land is appropriate for development in landscape terms.

An appeal decision at 4 Far Barn for a residential curtilage extension on nearby land was refused by the Council (11/00088/FUL) and dismissed at appeal APP/F2415/A/11/2158507 (25th October 2011). Amongst other things Inspector Ghafoor stated:

'... the development physically protrudes into agricultural land and the scale of the area used for residential purposes has significantly changed the character of the land. The extent of the area occupied for residential purposes represents an unacceptable visual intrusion into this part of the countryside. Because of the site's setting, the development does not appear to round off the built-up area. It does not enhance a strongly defined edge to the village, due to the amount and size of land used for the extended garden.....'

This proposal, however, is not comparable with the dismissed appeal given different issues including scale, type of proposal and planning policy background.

Layout and scale:

The applicant in the design and access statement outlined the constraints and opportunities these were: easement and watercourse, tree and hedges, allotments, neighbouring development, aspect to open countryside.

The revised application has a number of good design points. The layout of the site provides housing fronting the main road, providing an active frontage, as is the case for older properties on Leicester Road and High Street. Also at the access point off High Street Plots 3 and 24 have windows in the side elevations that front the main road, thereby forming an interesting frontage to the main road. Plot 24 is the first

house on travelling into the site; the main front elevation faces the entrance, thereby making an interesting entrance (focal point) to the site. The road curves round with a pavement on one side, so pedestrians have safe access. The dwellings are sited close to the road, and the garaging is set back from the frontage, providing interesting, secure and active frontage. The houses to the rear of the site face the field, thereby providing a soft buffer to the field beyond. The development is within the natural line of hedgerow running across the top of the site (n/w to s/e). Plot 10 provides an end stop to the development to the east and the elevation that faces the road is attractive. The corner space is needed for the sewer easement; it provides a green open corner to the site at the junction with Kilby Lane and High Street/Leicester Road.

The existing hedgerow to Leicester Road and the mature Oak tree are to be retained. The existing ditch is to remain open, however it is to be diverted. An open ditch is an Environment Agency requirement for reasons of ecology and practicality. Therefore the revised scheme shows the ditch within the gardens of Plots 12 and 13 and to the front of Plots 5-9. The lagoon which is now within the residential area, is primarily dry. This is acceptable arrangement as it does not have visual amenity impact, it is no un-common situation, the Environment Agency have not objected and it is buyer-beware situation. All the existing hedgerow around and within the site are to be retained, except along High Street (57metres) for visibility purposes and other short sections between Plot 17-18 and in the location of the lagoon. The hedgerow along the High Street will be re-planted.

The revised proposal provides a mix of housing types (semi-detached, detached, maisonettes and chalet bungalow). The site also provides a number of different unit sizes from 1 bed to 5 bedroom properties; whilst the majority are 4 bedroom this is acceptable. The approximate density is 30 dwellings per hectare, which is appropriate for the location and in accordance with policy CS2. The affordable housing is acceptable in two locations across the site and the HDC Housing Officer has no objection. The proposed pavement on Leicester Road and High Street means residents can safely access other parts of the village by foot, including the leisure centre.

The use of render and brickwork is acceptable, as it is common in the village. The dwellings have a number of elevational detailing i.e. eaves, plinths, bay windows, over window details; string courses add interest to the street scene and relate to the local vernacular. The heights of the dwellings range from 6.5m to 8.8metres. The careful choice of materials for the dwelling and hard surfaces can significantly enhance the appearance of the development. The proposal is therefore considered to accord with policies CS11 of the Harborough District Core Strategy.

Residential amenity:

The relationship with dwelling on Leicester Road is acceptable across a road at 20/21 metres. All the plots along High Street view the front or side of properties on Forge Close, except Plots 3 and 24. On these Plots the first floor windows have been omitted and re-located and the imprint of a window remains to add interest to the elevation. Plot 15 has a blank side elevation; this Plot is closest to 4 Cedars Courtyard (barn conversion). All the garden sizes are acceptable. The oak tree to be retained is to the front and some distance from the front of Plot 5 and 6, (3-5metres

beyond the canopy edge) therefore there are no residential amenity concerns that may subsequently affect the future of the tree. The application is therefore considered to be in accordance with Policy CS11 of the Harborough District Core Strategy.

Highways and parking considerations:

The revised development will be served by 4.8m wide x 43 metres visibility splay, access off High Street. The visibility splay and location of access point is acceptable to the Highways Officer taking into account other access points, road geometry and bus stops. The existing sewer is slightly relocated then diverted along the road and re-connected with the existing sewer in the field beyond. New footpath along the entire frontage of development, this is acceptable to the Highways Officer. Two new pedestrian crossings are proposed in the form of dropped kerbs and tactile paving on High Street and Leicester Road with a central pedestrian refuge (relocate subject to condition) this is acceptable to the Highways Officer. Off street parking provision within the development is acceptable, except for 3 of the 2 bedroom affordable housing units, however, each has a space, plus one visitor's space for the three units, therefore on balance this is considered acceptable and not a reason to refuse. The layout provides turning space within the site for a refuse vehicle to turn around.

The application site is located in close proximity to the village centre, within 10 minute walking time of the site there is a number of facilities such as food store, Post office, Village Hall, Surgery, Dental practice, Library, Primary school and sports ground. The site is therefore in a very sustainable location, which is one of the key reasons it is a village for growth in the Core Strategy. There is a bus stop already outside the application site opposite Albert Street on the Leicester Road and outside and opposite Co-op store, both are well within the recommended 400m walking distance. Two bus services are available during the daytime Monday to Saturday, half hourly and hourly. Traffic generation from the site at peak time is judged to have an insignificant impact upon the local highway network.

A further highways assessment was carried out specifically to address concerns raised by residents regarding traffic generated by the development during peak hours of school run and impact it could have on pedestrian safety and traffic flows. The results showed a 1.6% (9 vehicle trips) and 1.7% (9 vehicle trips) impact upon existing movements in the AM and PM respectively. The traffic Impact assessment concluded that the development traffic will have an immaterial impact upon the local highway network. In terms of pedestrian safe routes to school there is a network of segregated passageways provide access from residential areas to the school with little or no need to cross roads. Also there is a school crossing patrol on Kilby Road. The report concludes that in the light of this and the low level of traffic generation the proposals are not considered to be detrimental to pedestrian movements during school runs. It also concludes that the new pavement and crossing will improve accessibility for pedestrian movements of secondary school children to and from the Leicester Road south-bound bus stop. The application is therefore considered to be in accordance with Policy CS5 of the Harborough District Core Strategy.

Trees:

The revised application site has two trees (Pine and Ash) that are the subject of a Tree Preservation Order (TPO) (HDC 124). The Pine tree is located adjacent to High

Street boundary and as a result of the proposed scheme will need to be removed, it is a highly visible tree, however, its form with a floating canopy means it is not of high quality or visual amenity to retain, therefore its removal is acceptable. Along the roadside is a dense overgrown hawthorn hedge, it is proposed to remove and partly replant the hedgerow along High Street on visibility grounds. The TPO Ash tree on the southern boundary is not located on the application site and is positioned approximately 9 metres off-site behind a small group of poor Hawthorne's. The crown does not extend into the site therefore no arboricultural works are required. There is a large Oak on the northern boundary to Leicester Road; it has high visual amenity value. It is in Category B2 due to its size, visual prominence and quality. Within the scheme it is to be retained within a root protection area of 6m and fencing of 7m is advised, this can be dealt with by condition. Whilst the root protection area is affected by the diverted watercourse, only a small section is encroached upon, this is not considered to adversely affect the long term future of the tree. The application is therefore considered to be in accordance with Policy CS17 of the Harborough District Core Strategy.

Ecology:

The furthest field contains a well managed, level densely established grass sward, which is good for grazing, it is classed Improved grassland. The field does not contain significant ecological features and offer little cover. The front field is the poorest agricultural sward but the most diverse. It is classed as Neutral grassland-semi improved. There is potential cover for birds and mammals however, there is a clear desire line through this field and beyond for walkers and dogs, this presence will reduce the attractiveness of the land for birds and mammals. The two triangular pieces of land beyond the ditch are classified as tall herb. The hawthorn hedgerows across the site are species poor. The stream has dense shade and a steep sided bank therefore difficult for small mammals and there is no indication of aquatic plants. Therefore it is concluded that the level of bio-diversity is relatively low. The site including the trees, has not identified any evidence of significant use of the site by protected species, therefore the impact of the development on protected species is negligible. Ecology have no objection to the revised scheme. The application is therefore considered to be in accordance with Policy CS17 of the Harborough District Core Strategy.

Archaeology:

The application site has remained un-developed as agricultural land since at least the 19th Century. Any archaeological remains may therefore be relatively well preserved. Ground works may impact upon any archaeological remains. Part of the application site lies within the medieval village core (MLE1490). Earthwork remains are present immediately south-east of the area. There is therefore moderate potential for medieval remains to be present within the application site, other periods is unknown. The application site is rough pasture and there is no record of ridge and furrow in the area, therefore underlying archaeological remains may be relatively good. The on-site works did not result in any further archaeological work. There is no impact upon any Listed buildings in Fleckney, the nearest is on Main Street. The application is therefore considered to be in accordance with Policy CS17 of the Harborough District Core Strategy.

Drainage/Flooding:

The whole of the development site lies within Zone 1 of the Environment Agency Flood map 1 in 1,000 years. The exceptions test is not required and the site is sequentially preferable as there are no alternative sites at a lower flood risk.

The application area is 100% permeable, with the development the impermeable area will increase to 53% of the site area. The local watercourse a tributary of the River Sence, runs south-west to north-east through the site and is considered to be the primary flood risk to the development. As the watercourse is a non Main River the responsibility for flood defence, and land drainage and maintenance lies with the riparian owners. Following analysis and based on 1 in 100 year plus climate change event on the site it is recommended that the finished internal floor level is 600 mm above the 1 in 100 year plus climate change flood level at the site which vary from 102.31OD downstream end of site to 103.31OD up-stream end of site. Therefore if the downstream culvert did become blocked the internal floor level would be sufficiently elevated to ensure the building remained dry and operational. In terms of impact upon the height of the dwellings it would be marginal.

Various SUD's techniques can be used to discharge surface water. Currently the site runoff via a combination of infiltration, evaporation and overland flow to the local watercourse. The required attenuation for a 1 in 100 year plus climate change event (worse case scenario) has been calculated and a balancing pond (1m deep including 0.3m free board) is proposed to accommodate the storage of surface water for this event. A hydro-brake is provided to restrict flows from the site, particularly reducing run-off during higher return periods. Other SUD's practises will be explored if appropriate to site conditions. The diversion of the local watercourse will increase the length of the watercourse by 40ms and it will no longer be straight. The channel will have a 1.2m wide bed and side slopes of 1in1. The Environment Agency has no objection to diversion of the watercourse. Any further Environment Agency observations will be reported.

Planning Obligations:

Representations received and existing HDC s106 guidance make various s106 requests including contributions towards affordable housing, PCT, community facilities, open space provision, education and police. These representations are available for inspection as background papers. The suggested contributions are justified related to the proposal consistent with the Council's Planning Obligations, Developers Guidance Note, 2009, the Framework and CIL Regulations. Given the size of the site proposed for residential development the application triggers a requirement for Section 106 obligations:

- 30% of total affordable housing (ie. 9 out of 39 dwellings) Tenure split and type agreed
- Delivery and maintenance contribution to on site/off site open space.
- Upper school contribution.
- Library contribution.
- Community facilities
- Highways works
- Monitoring fee.

The applicant has agreed to all the above payments and works.

Conclusion:

The revised proposal on balance, would make a contribution to the delivery of housing, including affordable housing for Harborough District, without having an adverse impact on interests such as highway safety, residential amenity, cultural heritage, flooding or the character of the surrounding countryside. The proposal generally satisfies the aims and objectives of the Framework, and the grant of permission will not seriously undermine the likely achievement of policy objectives including the Council's adopted Core Strategy and Planning for Growth (March 2011). Given the identified benefits of the scheme a departure from to Policy CS/2 of the Harborough District Local Plan is justified.

Conditions / Reason:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. No development shall commence on site until a schedule indicating the materials to be used on all external elevations of the approved dwellings and garages has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity. REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.
3. This consent relates to plan no. 12053-502; Topographical survey S912/01 Planning layout Pf12053-500 RevC-B Street scene?? PF12053-510; 511; 512? 513;514;515; 516; 517; 518; 519; 520; 521; 522; 523; 524; 525; 526; 527; 528; 529; 530; 531; 532; 533; 534; 535; 536; 537?; 538; attached to and forming part of this consent. REASON: For the avoidance of doubt.
4. No development shall commence on site until details of the existing and proposed ground levels and finished floor levels of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity. REASON: To ensure a satisfactory form of development which is compatible with the character of the surrounding locality and to accord with Harborough District Core Strategy Policy CS11.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted at first floor level and above in the south-west elevations of Plots 3 and 25 of the development hereby permitted. REASON: In the interests of residential amenity and privacy and to accord with Harborough District Core Strategy Policy CS11.

6. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
 - (a) indications of all existing trees and hedgerows on the land;
 - (b) details of any trees and hedgerows to be retained, together with measures for their protection in the course of development;
 - (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
 - (d) finished levels and contours;
 - (e) means of enclosure;
 - (f) hard surfacing materials;
 - (g) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
 - (h) retained historic landscape features and proposed restoration, where relevant.
 - (i) programme for the provision and maintenance of the local area of play
 - (j) programme of implementationThereafter the development shall be implemented fully in accordance with the approved details and retained in perpetuity. REASON: To enhance the appearance of the development in the interest of the visual amenities of the area and to accord with Harborough District Core Strategy Policy CS11.
7. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years from the date of first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features and to accord with Harborough District Core Strategy Policy CS11.
8. No development shall commence on site until the trees on the site have been enclosed by protective fencing, in accordance with British Standard 5837 (2010): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved by the Local Planning Authority, and after it has been erected it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s). REASON: To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity and to accord with Harborough District Core Strategy Policy CS11.

- 9 No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the District Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)]. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of the same size and species and shall be planted at such time, as may be specified in writing by the Local Planning Authority. REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity accord with Harborough District Core Strategy Policy CS11.
- 10 The existing hedgerows on site to be retained shall in no way disturbed. REASON: To ensure that the existing hedgerow(s) on the site can be retained, to enhance the development and to safeguard the appearance of the area and to accord with Harborough District Core Strategy Policy CS11.
11. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) measures for the protection of the natural environment;
 - i) hours of construction work, including deliveries; and
 - j) measures to control the hours of use and piling technique to be employed has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.
- REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and to accord with Harborough District Core Strategy Policy CS11.
12. No development shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
 - LR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004. Should any unacceptable risks be

identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- The Verification Plan shall be prepared in accordance with the requirements of:
 - Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the land is fit for purpose and to accord with Core Strategy Policy CS11.

13. Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development. Prior to occupation of any part of the completed development, a report showing the findings of the Verification Investigation shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved Remedial Scheme; and
 - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

REASON: To ensure that the land is fit for purpose and to accord with Core Strategy Policy CS11.

14. No development shall commence on site until full details of the means of foul and surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be

implemented in accordance with the approved details and retained in perpetuity.
REASON: To ensure the satisfactory drainage of the site and to accord with
Harborough District Core Strategy Policy CS10.

15. All details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients (1:12 for first 5 metres), drainage, surfacing, signing and lining (including that for cycleways and shared use footway/cycleways) and visibility splays and be submitted for approval by the local Planning Authority in consultation with the Highway Authority before development commences.
REASON: To ensure a satisfactory form of development and in the interests of highway safety.
16. Before first occupation 2 pedestrian crossing points shall be constructed. One in the approximate location of the existing raised painted deflection island on the High Street approach to the mini-roundabout, which shall include a central pedestrian refuge. The other in the frontage of plot 24. Plans shall be submitted for approval of the LPA and a stage 1 safety audit shall be carried out.
REASON: To provide safe crossing points for pedestrians
17. Before first use of the development hereby permitted, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with High Street. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays. REASON: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety and to accord with Harborough District Core Strategy Policy 11.
18. Before first use of the development hereby permitted, 1.0 metre by 1.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and thereafter be permanently so maintained. REASON: In the interests of pedestrian safety and to accord with Harborough District Core Strategy Policy CS11.
19. Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained. Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users.

13/00245/FUL/13/00246/CON
Shearsby
Mr M. Allen

– Demolition of existing bungalow and erection of dormer style detached dwelling at Tall Trees, Mill Lane, Shearsby.

Target Date: 02/05/2013

Recommendation

13/00245/FUL

APPROVE for the following reason and the appended conditions:

The development hereby approved, by virtue of its design, size and positioning, would not have a significant adverse affect the amenity of neither local residents, nor result in a sub-standard level of off street parking, and would be of harmonious design, form and materials. Furthermore, it is considered that the development preserves and enhances the character and appearance of the Conservation Area. The proposal is therefore considered to accord with Harborough District Core Strategy Policies CS11 and CS17 and no other material considerations indicate that the policies of the development plan should not prevail. This decision has been reached taking into account 186-187 of the National Planning Policy Framework.

13/00246/CON

APPROVE for the following reason and the appended conditions.

The building does not make a positive contribution to the Conservation Area and the demolition and redevelopment hereby approved would not detract from its character or appearance. The proposal is therefore considered to accord with Harborough District Core Strategy Policy CS11 and no other material considerations indicate that the policies of the development plan should not prevail. This decision has been reached taking into account 186-187 of the National Planning Policy Framework

Site:

The application site is located on the southern entrance to the village on the western side of Mill Lane and currently comprises a 1960's bungalow accessed off a shared (private) access with neighbouring bungalows known as "Low Eaves" and "Mill House". The site comprises some 0.13ha and there are mature trees and shrubs to the garden and front of the bungalow (to surrounding fields). The site is within the Conservation Area but not readily visible from Mill Road.

Background:

The previous scheme proposed to replace the bungalow with a modern, traditionally designed, five bedroom property on a similar position to the existing bungalow though increasing the height and bulk of the building considerably. The current height would be increased from 4.267m to 7.96m . The part of the dwelling nearest the adjoining property "Low Eaves" would be lower (up to a height of 6.037m) as this would comprise dormer accommodation over the proposed double garage. A traditional steeply pitched roof, chimneys and open timber porch was also proposed. Use was made of the existing shared access with no changes to the current arrangement proposed and no trees were shown to be removed.

The application was refused for the following reason:

“The proposal by virtue of its design and scale would be out of keeping with the appearance and character of adjacent dwellings and detract from Shearsby conservation area. The proposal is therefore contrary to Harborough District Core Strategy Policies CS11 and CS17”

The associated Conservation Area consent application was also refused for the following reason;.

The existing building does not detract from Shearsby conservation area and the proposed demolition and redevelopment represents inappropriate alternative development. The proposal is therefore contrary to Harborough District Core Strategy Policy CS11.

Policy

National

NPPF “The Framework”

Ministerial Statement “Planning for Growth” (23.03.11):

Circular 06/05: Biodiversity

Circular 11/95: Conditions

Supplementary Planning Guidance Notes:

SPG Note 1: Design Principles to be applied in Harborough District

SPG Note 2: Residential development

SPG Note 3: Single plots.

Shearsby Conservation Character Statement

Core Strategy

Policy 11: Promoting Design and Built Heritage

Policy 17: Countryside, Rural Centres and Rural Villages

Local Plan for Harborough District (including Appendix B Review of Core Strategy:NPPF Compatibility (03/13/12)f

Consultations:

LCC Highways (comments as previously as no change to access arrangements)
Recommends on site parking conditions.

LCC Ecology

Further bat survey required (as per recommended condition 4)

LCC Archaeology:

None received-previously developed site.

Conservation Officer: (previous comments)

The site is not readily visible from key points within the conservation area and given the design merits of the proposal raises no objection.

County Arboricultural Officer:

Has inspected the row of elm trees on the southern side of the drive (at the request of concerned neighbours).

Considers that the trees in the row are of indifferent calibre, save possibly T3, certainly no different from any others in the vicinity, and it would be difficult to justify a TPO. That is not to say that they need removing, but some branch reduction above the decayed points might be prudent.

Any proposals at 'Tall Trees' would not particularly affect the trees, but any proposed upgrade of the concrete drive might, depending on the specification, as it is well within the RPAs of the trees (certainly T1 - T3). Also, considering the age and condition of this concrete road, use of heavy vehicles in any development could degrade it badly. Perhaps this should be included in any advisory notes or conditions.

Parish Council: (see on-line for full copy)

Objects: 1) Residents aware that height is slightly reduced but footprint greatly increased and is too large for this location and context.

2) Concerns about increase in traffic onto Mill Lane.

3) Concerns about impact on row of trees adjacent drive, especially during construction.

Representations:

Letters of objection received from 11 separate households (see online for full copies):

1) Too large and out of keeping-little has been done to minimise impact-footprint is bigger.

2) The new dwelling would overlook and dominate the existing 2 bungalows and result in loss of light and overlooking to garden and conservatory and adjoining cottages.

3) Would adversely affect the character and appearance of the area and would be visually prominent from various footpaths, particularly given the elevated position of the site.

4) Increase in vehicles using access and use of dangerous access.

5) Adverse impact on Conservation Area.

6) Concerns about access particularly during construction.

7) The site is in an elevated position and would be out of keeping

8) 10% increase in number of houses built but no smaller, affordable dwellings which village needs.

9) Concerns about impact on the access road.

10) Shearsby not identified as selected rural village and proposal contrary to Policy CS17.

11) Will overlook properties in Mill Lane and be dominant and imposing.

12) Concerns about sewage capacity.

Other Information

History;

63/00009A/LRDC

Erection of 4 dwellings with accesses (app)

12/01332/FUL Demolition of existing dwelling and erection of new dwelling (refused)

12/01324/CON Demolition of existing dwelling (refused)

Reason for Committee Decision:

This application is being reported to the Planning Committee due to the level of local interest (5+ letters of objection):

Planning Considerations:

Policy Assessment:

Shearsby is not identified in the adopted Core Strategy Policy CS17 as a rural centre or rural village where limited infill development may be acceptable thus it falls within the category of all other cases where development “will be on a scale which reflects the size and character of the village concerned”.

As the scheme represents a replacement dwelling the principle of a dwelling on the site is established and it would be unreasonable to require an affordable housing contribution given the presence of the existing residence.

Impact on Character of the Countryside/Conservation Area.

The scale and design of the proposed dwelling has been reduced since the previous submission to reduce the overall scale and bulk. The dwelling has been reduced in height from 7.963m to 7m with dormers incorporated in both front and rear elevations. The garage closest to the adjoining bungalow is now detached with no accommodation (previously a fifth bedroom) above with a reduced height of 5.3m (previously 6.037m). The width of the main part of the dwelling has been increased from 13.53m to 17.215m (excluding garage). The overall depth remains as previously although change to configuration.

The site is located in an elevated edge of village location and there are several footpaths on the vicinity, including footpath Y73 which is located on the Southern side of the site, on the other side of the hedge. Although there are mature trees to the southern boundaries, glimpses of the 3 bungalows can be seen upon entering the village from Mill Lane and these would be more prominent particularly during the winter months.

The previous scheme was considered out of character whilst the current scheme is considered to represent a more sympathetic design resembling more of a dormer bungalow than two storey dwelling and relating better to the adjoining with the removal of the accommodation above the garage.

However given the location of this bungalow in particular which is in excess of 55m from the entrance with Mill Road and the reduced nature of the scheme with the lower garage element to the nearest point, it is not considered that there would be a significant adverse impact on the character of the Conservation area or village as a whole, although the low key character of this part of the village would be altered. The proposed street elevation shows the increase in the overall ridge height between the new property and Mill House to be approximately 0.6m and 1.6m higher than Low Eaves.

Whilst the presence of bungalows and their contribution to the overall mix of housing is appreciated, the bungalow itself is not adjudged to have any particular architectural or wider merit and its demolition could not reasonably be resisted. On balance given

the reduced nature of the scheme and the merits of the design which can be further enhanced through the use of traditional high quality materials it is considered that the visual impact would be acceptable.

Impact on Residential Amenity

The main property to be impacted on is the adjoining bungalow known as “Low Eaves”. However this property has no principal windows to its nearest side boundary, though there is a rear conservatory and there is also a 3m high leylandii hedge to this boundary and further shrubs/trees. Further, the nearest element to this dwelling is the garage with the accommodation above now removed. The rear elevation has mainly secondary windows with the nearest bedroom window approximately 9.5m to the side boundary with “Low Eaves”. This is considered to represent an acceptable side by side relationship. Whilst the difference in levels between the site and cottage gardens to the north (rear is noted), given that the garden is some 22.2m in length and adjoins the end part of the neighbours (also long) garden, minimum separation distances are exceeded (21m principal-principal window is the adopted standard

Vehicular Access & Parking

The site would be served by an existing access point located off Mill Lane and leading to a private drive which serves the three existing bungalows. As there is an existing dwelling (albeit a smaller bungalow) already accessed off the same arrangement, no highways objection is raised. A condition requiring adequate on site parking is required (3 spaces required). As there is a double garage and further adequate space for parking and turning available on the site this can be achieved. The issue of access and maintenance of the private drive including during construction would be a private matter between the relevant land owners.

Trees:

The County Arboricultural Officer has examined the trees adjacent to the Access drive, namely 7 elm trees and whilst the trees are considered to have some wider amenity value, given their nature and condition they are not considered worthy of Tree Preservation Order protection. As the identified red site boundary does not include all the trees it would not be reasonable to add a tree protection condition. Outside of the application site, particularly as no works to the access are indicated. All retained trees are protected by proposed condition 6 within the site and a note to Applicant can be added. The trees are afforded protection in any event due to their location within the Conservation Area.

Conclusion:

The replacement of the bungalow is considered acceptable in principle given that the existing building is not considered of either architectural or historic merit. Whilst the low key character of this part of the Conservation Area would be altered and a more significant dwelling erected, the proposed design is considered of positive merit, particularly with the inclusion of high quality materials and detailing and the protection of existing landscaping. Given the nature of the design and the size of the plot, the proposal would not result in any significant adverse impact on adjoining properties. As such, the proposal complies with the requirements of the NPPF (including paragraphs 186-7) and Core Strategy Policies as detailed above.

Recommended conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. This consent relates plan nos 323.MA.12.001/B/02B/03G/04C/05. attached to and forming part of this consent. REASON: For the avoidance of doubt.
3. No development shall commence on site until full details of the materials to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details. REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11
4. No development shall commence on site until a further ecological survey for bats has been carried out (in optimum conditions) and the results and mitigation measures have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity. REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the northern/eastern elevation(s) of the development hereby permitted. REASON: In the interests of residential amenity and privacy and to accord with Harborough District Core Strategy Policy CS11
6. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of the same size and species and shall be planted at such time, as may be specified in writing by the Local Planning Authority. REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity accord with Harborough District Core Strategy Policy CS11
7. No development shall commence on site until details of the existing and proposed ground levels and finished floor levels of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity. REASON: To ensure a satisfactory

form of development which is compatible with the character of the surrounding locality and to accord with Harborough District Core Strategy Policy CS11.

8. No development shall commence on site until details of all eaves, verges, windows (including head, sill and window reveal details), doors, dormers, roof lights, rainwater goods, chimneys and canopies have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details. REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.

9. The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided hard surfaced and made available for use before the dwelling is occupied and shall thereafter be permanently so maintained. REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to accord with Harborough District Core Strategy Policy CS11

10. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) measures for the protection of the natural environment;
 - i) hours of construction work, including deliveries; and
 - j) measures to control the hours of use and piling technique to be employedhas been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and to accord with Harborough District Core Strategy Policy CS11

Notes to Applicant

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that

complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.

2. The applicant is reminded that bats and owls may be using the buildings as a nesting place. Both species are protected under the Wildlife and Countryside Act 1981. Should bats or owls, or evidence of them be present or be suspected in the buildings the applicant should contact Natural England.
3. Any upgrade to the access road should be agreed between those with access rights and special protection should be given to adjoining trees.

Conditions for 12/01324/CON

1. The works for which conservation area consent is hereby granted shall be begun within three years from the date of this consent. REASON: To accord with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

13/00281/FUL – Gilmorton

Framework Housing Assn.

Target Date: 10/05/2013

Change of use of land for the siting of 5 traveller pitches to include ancillary works and utility buildings.

Land Off Bonehams Lane
Gilmorton
Leicestershire

Recommendation:

APPROVE for the following Reason and subject to the appended Conditions.

The proposal is an appropriate replacement of an existing established traveller site and will provide an improved environment. It will not have a detrimental effect upon highways safety, neighbouring amenities, green infrastructure or ecological interests, and with the implementation of mitigation measures will not have a significant harmful impact on the character and appearance of the countryside. The proposal, therefore, complies with Policies CS4, and CS17 of the Harborough District Local Development Framework Core Strategy and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account 186-187 of the National planning Policy Framework.

Site :

The application site comprises agricultural land north of Boneham's Lane bridge over the M1 motorway, with the motorway and is associated earthworks forming the western site boundary. There is a hawthorn hedge along Boneham's Lane (eastern boundary) and similar to the southern boundary, whilst there is nothing to the southern boundary which remains in arable use. The nearest dwelling is the Barn which is approximately 150m northeast on the other side of Bonham's Lane. The site is characterised by its flat open nature, typical of the character of the area known as Lutterworth lowlands.

Directly to the South of the site is the existing established traveller site on the layby to the side of the road. Boneham's Lane itself is narrow in nature with no pavements or lighting and the nearest village is Gilmorton.

Proposal;

The proposal is to provide a site for 5 traveller pitches accessed off a new access on the northern side of Bonham's Lane in close proximity to the existing site which is shown as part of the scheme within the red site boundary. The existing site would be restored back to a verge, albeit of a smaller width as the lane would be widened at this point and trees planted/bollards installed (to prevent further access).

Within each new pitch there would be a utility building (dayroom/kitchen/bathroom). There are designed with a low mono pitch roof to reduce impact and have a maximum height of 3.4m incorporating brick and timber boarding. There are 2 double

blocks (14m by 5.5m) and one single block (7m by 5.5m), set off the northern boundary by 3.5m. Within each pitch there is space for 2 caravans and 2 vehicles. Boundary treatment comprises a 2m high acoustic fence and hedge to the northern boundary, post and rail and retain existing hedge to Bonham's Lane, 2m earth bund and tree planting to western boundary with M1 motorway and 2m high acoustic fence and retention of hedge to southern boundary.

In support of the application an acoustic report and tree/hedgerow and ecological survey has been submitted together with drainage plans and a design and access statement.

Background Information:

The existing traveller's site has been in place since 1994 thus the principle of the use in this location has been established.

Policy:

National Planning Policy Framework

Ministerial Statement "Planning For Growth" (2011)

The Leics, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment (GTAA)

Harborough District Core Strategy

CS4- Providing for Gypsy, Traveller and Travelling Show people needs

CS8 – *Protecting and Enhancing Green Infrastructure*

CS17 – *Countryside, Rural Centres and Rural Villages*

Local Plan for Harborough District (including Appendix B Review of Core Strategy:
NPPF Compatibility (3RD December Council 2012)

Consultations:

The application has been publicised by Site Notice and Press Notice in accordance with Circular 15/92 – Publicity for Planning Applications. The relevant Parish Council has been notified.

Leicestershire County Council:

Highway Authority (see online for full details):

No objections Recommends conditions including improvement to highway.

Ecology:

No objections-recommendations in report should be carried out.

Parish Council:

Objects. (full comments online)

1. Insufficient screening to North side
2. Needs assurance that existing site is cleared and altered to prevent further occupation from travellers.

3. Originally site was just for the existing family but now further pitches shown- should be reduced to 3

Representations:

Letters of objection from 7 different addresses have been received and one from Marrons representing one of the objectors (see online for full details):

1. Inadequate screening to North side (2m fence and hedge) will mean buildings visible and will be totally out of character.
2. Fully support Parish Council in that a soil embankment should be built on northern boundary with trees and shrubs to minimise impact.
3. Endorse the requirement for the site for family presently living close by but should be adequately screened.
4. Character of landscape is Lutterworth lowlands which is defined as open with lack of enclosing elements such as woodland and hedgerow.
5. Concerned that noise mitigation not adequate as survey carried out during still day with no wind.
6. Consider that an additional 10m strip to the North of the site could be acquired from County Council and banded and planted with trees and shrubs (illustrative plan submitted).
7. Does not comply with Core Strategy CS17 and National advice on travellers which requires positive landscaping.

Other Information:

Public Rights of Way:

None affected.

History:

None relevant

Committee Determination Requirement:

The application is being reported to the Planning Committee for determination due to the level of representation received (5+ objections).

Planning Considerations:

Policy Assessment:

As this application is for the provision of permanent pitches for gypsy and travellers, policies CS4 and CS17 (of the Core Strategy) are of particular relevance. Policy CS4 seeks to provide for Gypsy, traveller and travelling show people and states the need to provide a minimum of 30 permanent residential pitches between 2006 and 2016 (26 provided up until 2010). The Policy sets out a number of criteria to be satisfied but these must be considered in the context of the established location for this use.

Sites must:

- 1) Be a reasonable distance to a settlement and have access to range of services (Gilmorton has a primary school, shop/post office, 3 Public Houses/restaurants)

- 2) Be proportionate to scale of that settlement (5 pitches largely replacing exiting pitches is considered to meet this criteria).
- 3) Have suitable highways access (see highways comments-improvements to width of lane also proposed).
- 4) Provide appropriate mitigation through landscaping to prevent adverse impact on character of locality (see later in report under impact on character of countryside).
- 5) Not put future occupants at risk through noise etc (full noise impact report submitted-concludes that with the acoustic measures proposed the noise will be no more than at the current site.)

Policy CS17 refers to development in the countryside and requires that development outside selected rural villages will be strictly controlled and the integrity of the landscape character is protected.

Principle of Development:

The principle of a traveller site in this location is established and the new position will allow a safer environment away from the road for families, with better facilities provided in the utility blocks.

Impact on the Character and Appearance of the Area:

The area is characterised by the relatively flat, low key nature as identified in the Council's landscape assessments. The key impact is from the amenity blocks which will be located close to the northern boundary, which is a new boundary with the field. The amenity blocks have been designed with the mono-pitched roofs to minimise impact and also the use of timber cladding at higher levels. A 2m acoustic fence is proposed together with native hedge. Once mature the hedge should provide screening to this elevation, however even when mature there will be some visual impact as the height of the blocks are 3.4m maximum. However the majority of the site will be screened with the hedging to all boundaries and will be seen in the backdrop of the M1 motorway. The visual benefits of the removal of the existing site must also be considered.

Nearby residents and the Parish Council have expressed concern regarding this boundary and consider it inadequate. They have suggested that a large bund is constructed in the adjoining field and planted with trees. The bund suggested is 10m in diameter and has a height of 4m. This itself would represent quite a prominent landscape feature which would not be wholly in keeping with the relatively flat and open character of the area. Whilst it would provide significant screening, it is not considered justified by virtue of the development and as the land is outside of the identified application site a condition could not be reasonably imposed.

Impact to Residential Amenity:

Given that there is already a site in the vicinity, the relocation of the site off the road into an enclosed site is considered beneficial.

Highways Considerations:

There would be an improvement to the existing highway situation.

Other Considerations:

The site would help to meet the needs of a local established family and future needs of the traveller/gypsy community without significant adverse impact.

Conditions / Reason:

1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission. REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2.No development shall commence on site until full details of the bricks/cladding to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details. REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11

3.The development hereby approved shall be implemented in accordance with the approved mitigation measures detailed in the Ecological Survey. REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11.

4.No development shall commence on site until full details indicating the method and nature of construction of the drive/parking area has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such in perpetuity. REASON: To ensure that proper steps are taken to safeguard the trees during the course of development and to accord with Harborough District Core Strategy Policy CS11

5.The existing hedgerow(s) on site shall be retained and in no way disturbed. REASON: To ensure that the existing hedgerow(s) on the site can be retained, to enhance the development and to safeguard the appearance of the area and to accord with Harborough District Core Strategy Policy CS11

6.All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is the sooner. An additional scheme for further planting to the northern boundary, to include some trees shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved scheme shall be implemented as per the approved soft landscaping.

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. If any trees or plants , die,

are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features and to accord with Harborough District Core Strategy Policy CS11

7. There shall be no more than 5 pitches on site, and on each of the 5 pitches hereby approved no more than 2 caravans shall be stationed at any one time of which only one caravan may be a residential mobile home. Reason: To ensure that the use remains compatible with, and does not result in any undue detrimental harm to, the surrounding countryside and highway network and to ensure compliance with Core Strategy Policies CS4 and CS17.

8. This site shall not be used by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006. Reason:- The site lies in an area within which the District Planning Authority would not normally grant permission for residential development. This permission is therefore granted only because of the need of the applicant and the premises should accordingly only be occupied by a person who is recognized as a gypsy and to ensure compliance with Core Strategy CS4 and Circular 01/2006.

9. The new access shall be a minimum of 5.5 metres wide for at least the first 10 metres behind the highway boundary and have 6 metres kerbed radii at its junction with the adopted road carriageway. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.

NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway and to ensure Compliance with Core Strategy CS 11.

10. Prior to the development being brought into use, off site highway works to provide carriageway widening and consequential works shall be provided as generally shown in the submitted details (Dwg No:- 2012.4273.11A). The detail in this drawing may be subject to change at the technical approval stage of the S278 process under the Highways Act 1980.

Reason: Reason:-

In the interests of highway safety to better cater for vehicular movement and turning traffic into and out of the site along this section of Bonehams Lane in accordance with Core Strategy Policy CS11..

11.The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided hard surfaced and made available for use before the dwelling is occupied and shall thereafter be permanently so maintained. REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to accord with Harborough District Core Strategy Policy CS11

12.If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 10 metres behind the Highway boundary and shall be hung so as to open inwards only. REASON: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway and to accord with Harborough District Core Strategy Policy CS11

13.Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained REASON: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users and to accord with Leicestershire County Council 6Cs Design Guide.

14.Prior to the first use of the site, the existing site use shall permanently cease and the measures outlined in the Design and Access Statement implemented and retained thereafter in perpetuity .REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11

15.The development hereby permitted shall be in accordance with the following approved plans 02G/03/06/2012.4273.10A/11A. REASON: For the avoidance of doubt.

13/00311/FUL – Walcote
Mr Leigh Butler

Erection of pitched roofs to existing flat
roofs at 1, The Nook

Target Date: 20th May 2013

Recommendation

APPROVE subject to the appended conditions and for the following reason:

The development hereby approved will respect the local character, building materials and distinctiveness of the area and be of a design that will not harm the quality, character and amenity of the area whilst responding to the unique characteristics of the individual site. It will safeguard residential amenity, cause no harm to the streetscape, is consistent with the character of the area and will not cause a highway traffic hazard. The proposal is therefore considered to accord with Harborough District Core Strategy Policy CS11 and no other material considerations indicate that the policies of the development plan should not prevail; furthermore the decision has been reached taking into account 186-187 of the National Planning Policy Framework.

Site:

The property is a detached two storey house of 1970s design and construction with brick walls and a concrete tile roof. Accessed from the southwest, from Swinford Road, the property is south facing, with a generally open frontage. The site is within the current Limits to Development of Walcote.

The Proposal:

The application is for the erection of pitched roofs over the existing flat roofed single storey elements at the front and side.

Reason for reporting to Planning Committee:

The application is reported to the Planning Committee as the applicant is an employee of Harborough District Council.

Policy

National Policy:

National Planning Policy Framework ('the Framework')

Harborough District Core Strategy:

CS11 – Promoting Design and Built Heritage

Local Guidance:

Supplementary Planning Guidance note 5 – Extensions to Dwellings

Consultations / Representations:

Parish:

Resolved to make no comment (rec'd 23rd April 2013).

Representations:

None received

History:

None relevant

Planning Considerations:

Policy Assessment:

As the proposal is for additions to the roof, policy CS11 is considered most relevant. This requires a number of criteria to be met, such as the proposal should respect and enhance local character and respect the context in which it is taking place, and safeguard residential amenity.

Residential amenity:

No letters of representation were received; the parish made no comments. Most impact lies to Poppy Cottage, to the west as the garden of this neighbouring house adjoins the site. Although it is on a lower level, the amenity of this neighbour will not be harmed as the roofs slope away from the neighbour's garden. No increase in eaves height of the existing dwelling is proposed so the proposal will not be overbearing. The pitched roofs will not be higher than the existing two storey dwelling so no additional harmful loss of light will occur to this neighbouring property. There is not considered to be a detrimental impact to the amenity of any neighbour such as to warrant refusal and the proposal is considered to comply with CS11.

Design & Impact upon character of the area:

The show a subordinate design of hipped gable mono-pitched roofs, with a ridge height of 4.2 to 4.8m (the ground slopes down to the north, thus giving an increasing eaves, and subsequently ridge height). All materials and roof pitches shall match those existing. The design will have a positive impact on both the existing dwelling and the appearance of the area as the existing flat roofs are somewhat featureless. Number 3 The Nook has similar pitched roofs and the proposed design will be in keeping with these. Furthermore, SPG5 encourages pitched roofs rather than flat. It therefore complies with CS11.

Highways and parking considerations:

No alterations to existing parking and access are proposed, the number of bedrooms will also remain unaltered. Highways made no comments. The proposal complies with CS11.

Conclusion:

It is considered that the proposal complies with Policy CS11 and is recommended for approval.

Conditions / Reasons:

1. The development hereby approved shall be begun within 3 years from the date of this permission. Reason:- To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 and to enable the Local Planning Authority to review the position at the end of this period.
2. The materials to be used in the construction of the external surfaces of the development hereby approved shall match, in material, colour and texture, those used in the existing building. Reason:- In the interests of visual amenity and the character and appearance of the area and to accord with Policy CS11 of the Harborough District Local Plan.

Notes to Applicant:

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
2. If the permitted plans involve the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.

13/00328/CLU – Mowsley
Springfields Farms

Target Date: 9th May 2013

Certificate of Lawfulness of Existing Use
of building as a single dwelling house
with associated residential curtilage at
Mowsley Hills Farm, Theddingworth
Road,

Recommendation

APPROVE.

The Local Planning Authority considers that sufficient information exists to demonstrate that, on the balance of probability, the land has been used as a separate residential unit for a continuous period in excess of 4 years before application 13/00328/CLU was submitted, i.e. on and before 14/03/13

The Site/Context:

The application relates to a barn conversion (known as “the Old Corn Dryer”) and associated curtilage, which is located to the rear of Mowsley Hills Farm, which is located on the western side of Mowsley Road, outside of the village. Adjacent are a number of agricultural buildings and a recently granted barn conversion. There are two accesses serving the site as a whole.

Proposal:

The applicant is seeking to demonstrate that the red-edged parcel of land (identified on the “Site and Location Plan”) has formed a separate residential unit (and has been used as such) for in excess of 4 years according to submitted supporting statements.

For the Local Planning Authority to issue a Certificate of Lawfulness of Existing Use, the present applicant needs to demonstrate that, on the balance of probability, the land has been used as a separate dwelling for a continuous period in excess of 4 years before application was submitted, i.e. on and before 14/03/13 (such that no enforcement action may then be taken in respect of the use).

No material planning policy considerations can be taken into account in the determination of a Certificate of Lawfulness application – it is solely an evidence-based assessment to be made ‘on the balance of probability’ (and not under the stricter ‘beyond reasonable doubt’ approach which is applicable in criminal law).

Relevant Legal Considerations:

THE 1990 TOWN & COUNTRY PLANNING ACT

Section 191(1) of the 1990 Act states that:

(1) If any person wishes to ascertain whether—

- (a) any existing use of buildings or other land is lawful;
- (b) any operations which have been carried out in, on, over or under land are lawful;
- or;
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

By virtue of Section 191(2), the local planning authority are required to issue such a Certificate if the uses or operations described in the application would be lawful on the basis that no enforcement action may then be taken in respect of them. Subsections (4), (5) and (6) of Section 191 explain the detail to be provided within the application/Certificate.

DOE CIRCULAR 10/97: ENFORCING PLANNING CONTROL: LEGISLATIVE PROVISIONS AND PROCEDURAL REQUIREMENTS

This Circular contains general advice as to how planning control should be enforced. Annex 8 is titled "Lawfulness and the Lawful Development Certificate" and explains a number of issues directly relevant to this application.

Paragraph 8.3 clarifies the meaning of Section 191(2) of the 1990 Act and explains that operations and uses are lawful if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in place.

Paragraph 8.11 clarifies that the purpose of Lawful Development Certificate applications is to ascertain whether specific uses, operations or activities are lawful. Applicants must, therefore, describe precisely what is being applied for. Local planning authorities must assess whether, on the facts of the case and relevant Planning Law, the specified matter is or would be lawful.

Paragraph 8.12 advises that the onus of proof is firmly on the applicant to show that the development is lawful. A Lawful Development Certificate can be refused if this onus of proof has not been discharged. A refusal to issue a LDC is not necessarily conclusive that something is not lawful: it may merely mean that, so far, insufficient evidence has been presented to satisfy the LPA that the use, operation or activity is lawful.

Paragraph 8.15 explains the relevant test of the submitted evidence. The Courts have held that the relevant test of the evidence on such matters is "the balance of probability". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a Certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see *F W Gabbitas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the

application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate "on the balance of probability". The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

Consultations:

Mowsley Parish Council;

Objects;

- 1) Consider application is a blatant attempt to obtain planning "through the back door" and would set unwelcome precedent.
- 2) Would have been apparent when Applicant bought property that there were restrictions.
- 3) Owner has knowingly breached conditions.
- 4) Alterations have been made without planning permission.
- 5) Building has never been used as holiday let, thus planning permission has lapsed.
- 6) Owner states that there has been no intention to conceal occupation but Council tax not paid.
- 7) Attempts have been made to confuse planning dept and objectors through use of different names for various conversions.

Representations:

Comments received from 3 separate addresses raising the following objections:

- 1) Refers to the Applicant buying property being fully aware of planning restrictions. Building never used as holiday let.
 - 2) Refers to barn conversion granted under ref 11/01222/FUL which required use to be ancillary.
 - 3) Refers to previous consent granted for B&B which required ancillary use and unauthorised works.
 - 4) Disputes claims made by the Applicant about the occupation of the building.
- (All comments available for inspection)

Assessment of Submitted/Available Information:

Planning History;

04/01533/FUL Change of use of existing farm buildings to three B and B rooms and self catering holiday let cottage (approved 16/11/04).

11/01222/FUL Extension and conversion of barn to form dwelling (approved 31/10/11- refers to a different barn from application property).

12/01123/PCD Discharge of conditions relating to the above.

Information: This application has been referred to the Planning Committee by the Local Ward Councillor on the grounds of "public interest".

Submitted evidence; (see on line for full details)

The Applicant has submitted written evidence and details of various deeds and tenancies in regard to the barn. Key points:

The Pay family acquired the property on 1st May 2002 and occupied the main house and the daughters also used the Old Corn Dryer as ancillary accommodation (no evidence supplied)

2004 planning consent to convert the Old Corn Dryer as detailed above. (No discharge of conditions or evidence of occupation for B&B use)

May 2007 property in entirety went to auction (letter from Agent states that "I can clearly remember the buildings were used by Mr and Mrs Pay's daughters as residential accommodation" (sworn affidavit)

27th May 2007 Mr Roy Holyland purchases property (land registry details supplied).

Mrs Pay who had previously owned the property then approached Mr Holyland wishing to rent the farmhouse and old corn drier for a further year. (Copy of assured short hold tenancy agreement submitted but this only refers to Mowsley Hills Farm and not specifically to the Old Corn Dryer.)

08/07/2008 Copy of short hold tenancy between Mr Roy Holyland and Mark Holyland which refers specifically to the letting of an unfurnished house known as The Old Corn Dryer (verified by Solicitor).

01/05/12 Copy of short hold tenancy between Mr Roy Holyland and Lorraine and Graham Smith (verified by Solicitor).

Conclusions :

Sufficient evidence has been submitted to show that, on the balance of probability, the tenancy agreements which refer specifically to The Old Corn Dryer show that it has been used as a separate residential dwelling since at least 08/07/2008 thus in excess of the required 4 year period. It would appear as stated by both the Applicant and the objectors that the B&B Permission was never fully implemented for this use but the works to convert the building took place (although it is not clear whether these works were in accordance with the approved plans)

Notwithstanding this consent, however both the works and the residential use is shown to have taken place for the required 4 year period in order to merit it lawful, hence the recommendation.

RECOMMENDATION:

Approve Certificate