HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 73

Hinckley & Bosworth Borough Council

APPEAL BY MR R Wheatley AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF 7 DWELLINGS WITH ASSOCIATED ACCESS AT Lane Rear of 31 and 33 Canning Street, Hinckley.

HBBC REFERENCE: 11/00627/FUL

THE PLANNING INSPECTORATE REFERENCE: APP/K2420/A/12/2172312

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1.0 Section 1: Introduction

1.1 This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission for the erection of 7 no. dwellings with associated access at Land Rear of 31 and 33 Canning Street Hinckley.

2.0 Section 2: Site Description and Proposal

2.1 The proposal seeks planning permission for the construction of 3 no. three bed and 4 no. four bedroom houses. These will be sited in two parcels. A terrace of three properties will be sited adjacent to 28 Chesser Street to the south east and two blocks of semi detached houses will be sited along the Mill Hill road frontage to the north east of the site. The scheme proposes a mix of designs, reflecting those of surrounding properties.

2.2 Vehicular and pedestrian access is provided off Chessher Street to the terrace of three properties, with two parking spaces provided for each dwelling. These parking spaces measure 5m x 2.5m. A turning head for these properties is also provided adjacent to the southern boundary. Individual access points off Mill Hill Road and Canning Street are proposed to serve the remainder of the dwellings.

2.3 The site sits within the settlement boundary of Hinckley, close to Hollycroft Park and within walking distance of the town centre. It is surrounded on the south east side by existing housing and the south west by redundant workshops. The north-west corner of the site fronts Mill Hill Road and Chessher Street and sits opposite the corner of Hollycroft Park, close to an access point off Shakespeare Drive. This portion of the site lies within the Hollycroft Conservation Area. The site is generally level, with a slight lowering of the ground from the crossroad junction and along Mill Hill Road.

2.4 The site currently comprises a parcel of derelict overgrown land. The north-west section of the site is covered with a combination of self seeded trees, brambles and weeds. To the south-west, the majority of the site is overgrown, with one historic workshop building and a parking area. This parcel of land has outline planning permission for the erection to two detached dwellings.

2.5 The area immediately surrounding the site is a combination of high density terraced housing (Canning Street, Chessher Street & the south-east section of Mill Hill Road) and a more spacious arrangement of semi-detached dwellings (Shakespeare Drive, St George's Avenue & the north-west section of Mill Hill Road).

2.6 At the north-west corner there is an existing crossroad junction, of which the through route is a combination of Mill Hill Road running into Shakespeare Drive. Hollycroft Park is situated on the opposite side of the cross road.

3.0 Section 3: Site History

3.1 An application for the construction of 13 apartments with associated access and landscaping (10/00746/FUL) was made in 2010, however this was withdrawn. In 2008 an application for the erection of 2 dwellings (08/00609/OUT) was approved. In 2003 an application was made for the erection of 3 dwellings (03/01090/OUT) this was approved.

In 2002 an application was made for a workshop extension (02/005344/FUL) this was approved.

4.0 Section 4: Government Guidance

4.1 At the time of determination the following national policies were applicable. Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing, Planning Policy Statement 5: Planning for the Historic Environment, Planning Policy Guidance 13: Transport, Planning Policy Statement 17: Planning for Open Space, Sport and Recreation, Planning Policy Statement 23 (PPS23): Planning and Pollution Control, Planning Policy Statement and 25: Development and Flood Risk.

4.2 The National Planning Policy Framework was issued on 27 March 2012 and as such the previous national policy as listed above has now been superseded.

4.3 The Community Infrastructure Levy Regulations 2010 (CIL) requires that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

5.0 Section 5: The Development Plan Policies

5.1 The Development Plan policies referred to for the purposes of the application were:

5.2 Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (adopted December 2009);

5.3 Policy 1: 'Development in Hinckley'

5.4 Policy 16: 'Housing Density, Mix and Design'

5.5 Policy 24: 'Sustainable Design and Technology'

5.6 Hinckley and Bosworth Local Plan (adopted February 2001) with all policies referred to within the Local Plan have been 'saved';

5.7 Saved Policy BE1: 'Design and Siting of Development'

5.8 Saved Policy BE7: 'Development in Conservation Areas'

5.9 Saved Policy T5: 'Highway Design and Vehicle Parking Standards'

5.10 Policy T9: 'Facilities for Cyclists and Pedestrians'

5.11 Policy RES5: 'Residential Proposals on Unallocated Sites'

5.12 Policy NE14: 'Protection of Surface Waters and Groundwater Quality'

5.13 Policy IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities'

5.14 Supplementary Planning Guidance (SPG): 'New Residential Development'

5.15 The Council's Supplementary Planning Document (SPD): 'Play and Open Space'

5.16 The Council's Supplementary Planning Document (SPD): 'Sustainable Design'

5.17 Hinckley Town Centre Area Action Plan 2011.

5.18 Hollycroft Conservation Area Appraisal (2011)

5.19 Copies of the relevant policies and guidance with explanatory text were submitted previously with the Appeal Questionnaire.

6.0 Section 6: Government Guidance and Development Plan Policies

6.1 The NPPF reiterates the statutory requirement that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2 In addition, a requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Borough Council Local Plan and the Policies of the Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy, against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

6.3 Policy 1: 'Development in Hinckley' of the Local Development Framework Core Strategy. This Policy is considered to be consistent with the NPPF. The relevance of this policy to the reason for refusal is that the council "Require new development to respect the character and appearance of the relevant Conservation Area". In respect of the context of this proposal and the Local Planning Authorities' case in this appeal the specifics within this policy as stated above is considered to be generally consistency with the NPPF. As a result this policy remains relevant to the consideration of this application.

6.4 Policy 16: 'Housing Density, Mix and Design' of the Local Development Framework Core Strategy. This Policy is considered to be consistent with the NPPF which seeks Local Planning Authorities to set out their own approach to housing density to reflect local circumstances and requires that Local Planning Authority identify the size, type, tenure and range of housing that is required in particular locations. As a result this policy remains relevant to the consideration of this application.

6.5 Policy 19: 'Green Space and Play Provision' of the Local Development Framework Core Strategy. This Policy is considered to be consistent with the NPPF which seeks to achieve high quality public space, which encourage the active and continual use of public areas.

6.6 Policy 24: 'Sustainable Design and Technology' of the Local Development Framework Core Strategy. This Policy is considered to be consistent with the NPPF which seeks to protect and enhance the built environment through the prudent use of natural resources, the minimisation of waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

6.7 Saved Policy BE1: 'Design and Siting of Development' of the adopted Hinckley and Bosworth Plan. This Policy is considered to be highly consistent with the NPPF. The NPPF does not appear to support part "j" which relates to comprehensive development of larger sites. Part "j" is not relevant to this application but the over-arching principles of Policy BE1 as defined by parts "a" to "i" remain relevant considerations for this application.

6.8 Saved Policy BE7: 'Development in Conservation Areas' of the adopted Hinckley and Bosworth Plan. This Policy is considered to be consistent with the NPPF which seeks to sustain and enhance the asset and requires an assessment of the significance of the asset, including the setting.

6.9 Saved Policy RES5: 'Residential Proposals on Unallocated Sites' of the adopted Hinckley and Bosworth Plan. This policy is not considered consistent with the intentions of the NPPF, which states that housing applications should be considered in the context of the presumption in favour of sustainable development and encourages the use of Brownfield land. Criteria B, of this policy refers to developments requiring good design in accordance with other policies of the local plan. This criteria should no longer be used as it is repeated by Policy BE1 which is consentient with the design criteria within the NPPF. Accordingly, this policy does not remain relevant to the consideration of this application.

6.10 Saved Policy T5: 'Highway Design and Vehicle Parking Standards' of the adopted Hinckley and Bosworth Plan. This Policy is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

6.11 Saved Policy T9: 'Facilities for Cyclists and Pedestrians' of the adopted Hinckley and Bosworth Plan. This Policy is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

6.12 Saved Policy REC3: 'New Residential Development - Outdoor Play Space for Children' of the adopted Hinckley and Bosworth Plan. This Policy is considered to be consistent with the NPPF which seeks to achieve high quality public space, which encourage the active and continual use of public areas.

6.13 Policy NE14: 'Protection of Surface Waters and Groundwater Quality' of the adopted Hinckley and Bosworth Plan. This Policy is considered to be consistent with the NPPF which seeks to conserve and enhance the natural environment and prevent unacceptable levels of water pollution. As such the policy remains a relevant consideration for this application.

6.14 Saved Policy IMP1 of the adopted Hinckley and Bosworth Plan. This Policy is considered to be highly consistent with the NPPF subject to the statutory test of Regulation 122 of The Community Infrastructure Levy Regulations 2010

7.0 Section 7: The Case for the Local Planning Authority

7.1 On the basis of the reasons set out below, the Council contends that the planning permission should be refused.

7.2 Reason for Refusal 1: Impact upon the Character of the Surrounding Area.

7.3 In the opinion of the Local Planning Authority, the proposal by virtue of the number of units proposed, their siting and layout, constitutes an overdevelopment of the site. The proposal fails to respect the pattern of development in the locality and would therefore not complement or enhance the surrounding area. The development would therefore be contrary to Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan, the Council's Supplementary Planning Guidance on New Residential Development and the guidance contained within Planning Policy Statement 3: Housing.

7.4 As mentioned above, saved policy RES5 is not considered consistent with the intentions of the NPPF, however development plan Policy BE1 and the Council's Supplementary Planning Guidance on New Residential Development are considered to be consistent with the NPPF. Therefore the Council contends that the application remains contrary to Saved Policy BE1 of the adopted Hinckley and Bosworth Local Plan, the Supplementary Planning Guidance on New Residential Development and the overarching intentions of the NPPF.

7.5 Paragraph 58 of the NPPF states that planning decisions should aim to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and respond to local character and history, and reflect the identity of local surroundings and materials. In this case, the application site comprises a transitional corner plot, comprising an area of greenery between the more dense development towards the town centre to the south east and the less dense, more spacious and landscaped area within the Conservation Area further to the west. This is illustrated at Appendix 1.As such it is considered that the development, by virtue of its dense layout, which will result in the loss of this green oasis and will therefore not add to the overall quality of the area and thus would be a form of inappropriate development, which causes harm to the character of the local area.

7.6 Local Plan Policy BE1 seeks a high standard of design to safeguard and enhance the existing environment through a criteria based policy. Criteria a) includes ensuring the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, design, materials and architectural features'. This consideration ties in with the intentions of paragraph 53 of the NPPF for Local Authorities to prevent overdevelopment and development that is out of keeping with the character of the surrounding area. By virtue of the number, and layout of units proposed on this relatively small site, which is not replicable of the less dense development further west, the development is considered to be harmful to the character and appearance of the locality, contrary to the intention within the NPPF and development plan policy.

7.7 Based on the above, in light of the changes to government guidance, the Council's contends that the proposal remains contrary to Saved Policy BE1 (criteria a and b), the Supplementary Planning Guidance on New Residential Development and the overarching intentions of the NPPF.

7.12 Reason for Refusal 2: Impact upon Residential Amenity.

7.13 In the opinion of the Local Planning Authority, Plots 5, 6 and 7 by virtue of their scale, layout and siting would be to the detriment of the amenities and privacy of future

occupiers and adjoining residents (nos. 29 Canning Street and 35 Chessher Street), contrary to the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan and the Adopted Supplementary Planning Guidance on New Dwellings.

7.14 Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions. Paragraph 66 goes on that applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community.

7.15 Policy BE1 criteria i states that proposals should not adversely affect the occupiers of neighbouring properties. The SPG adds further clarity to this by stating that where a principle window of a habitable room faces a similar window of a neighbouring dwelling, either at the front or rear, the Local Planning Authority should seek to negotiate a distance between them of 25 metres. Further, to ensure that dwellings do not have an over-bearing impact and are not over-dominant, the SPG advises that rear gardens should have a minimum depth of 12.5 metres.

7.16 The rear garden lengths of plots 5 -7 are all below the 12.5 metre length as advised within the SPG. Accordingly the proximity of these three storey properties are considered to have an overbearing and over dominating impact on the dwellings to the rear. Further, in terms of impacts on the privacy of the surrounding dwellings, the distance between the rear elevations of plots 6 and 7 and those of the properties to the rear is approximately 22 metres, and the distance between the front elevation of plots 6 and 7 and that of 35 Chessher Street is approximately 12 meters. These distances are well below those advised within the SPG. Therefore it is considered that the proposal will result in an unacceptable degree of overlooking of number 29 Canning Street and 35 Chessher Street, to the detriment of their residential amenity. This will be further compounded to the rear, by the bedroom windows in the roofspace.

7.17 Based on the above, in light of the changes to government guidance, the Council's contends that the proposal remains contrary to Saved Policy BE1 (criteria i), the Supplementary Planning Guidance on New Residential Development and the overarching intentions of the NPPF.

7.19 <u>Reason for Refusal 3: Lack of off road Parking Provision.</u>

7.20 In the opinion of the local planning authority and having regard to the high level of on-street parking in the area, the applicant has failed to demonstrate that adequate off-street car parking provision can be provided within the curtilage of the site to serve the proposed development. As such the proposed development is considered contrary to saved policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan

7.21 Paragraph 32 of the NPPF states that Developments should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Paragraph 39 states that if setting local parking standards for residential development , local planning authorities should take into account:

- The accessibility of the development;
- The type mix and use of the development;
- Local car ownership levels.

7.22 Saved policy T5 of the Local Plan states that for new development the Local Planning Authority will apply the standards set out in the current edition of the Leicestershire County Councils "Highway Requirements for Development". This document has since been updated and is now known as the 6C's Design Guide. The continual updating and renaming of the documented has been subject to consideration by Inspectors on many occasions and it has been found to be consistent and reflective of the Saved Local Plan Policy T5 to which it is associated with. Criteria of Policy BE1 further states that developments should provide adequate provision for on street parking for residents and visitors.

7.23 The current Leicestershire County Councils "Highway Requirements for Development (the 6 C's Design Guide) requires parking provision, for developments of over 5 properties to be provided in accordance with the 'Communities and Local Government – Residential Car Parking Research Publication. This document sets out a method for calculating total demand for parking for a proposed housing development based upon a number of criteria including the location of the development, they house types and size and local car ownership levels. In respect of garage dimensions, for these to count towards off road parking provision, they should have internal dimensions of 3 metres x 6 metres.

7.24 In respect of the surrounidng highway characteristics, Chessher Street suffers from chronic levels of on-street parking due to the terraced nature of dwlleing in the lociality and is substandard in respect of width, pedestrian and service vehicle turing provision. Visability at the junction of Chessher Street and Trinity Lane is also severely restricted by on-street parking. In respect of Canning Street, the junction of Canning Street and Mill Hill road also suffers from high levels of on street parking.

7.25 This application propses two off road parking spaces for plots 5 – 7, which comprise three bedroomed dwellings, and two spaces for plots 1 – 4, which comprise four bedroomed dwellings. However, for plots 1 and 2, one space is provided within a garage.

7.26 Based on the above, and given the lcoal areas characteristics, it may be fair to accept that the provision of two off road parking spaces for plots 5 – 7 may be adequate; however provision for plots 1 – 4 is considered insufficient, with the situation for plots 1 and 2 being worsened due to the inadequate size of the garages. This underprovision is considered to be detrimental to the safety of Canning Street, through the developments likely contribution to the already high levels of on street parking within the locality. Therefore, in light of the changes to government guidance, the Council's contends that the proposal remains contrary to Saved Policy BE1 (criteria g), Policy T5 and the overarching intentions of the NPPF.

8.0 Section 8: Comments on Appellant's Grounds of Appeal

Appellants Statements

8.1 The appellant believes that the proposed development will provide much needed housing and have a positive impact for local residents in the area by virtue
of the redevelopment of an unattractive plot of derelict land. As such the appellant contends that the principle of constructing new residential development in the proposed location is supported by current Development Plan Policy.

8.2 In respect of reason for refusal 2, the appellant argues that any reduction of separation distances is necessary due to the requirement to maintain a development that is in keeping with the immediate environment, in respect of layout and density. If, and where, separation distances fall short of guidelines we do not believe that this will result in any significant loss of amenity, to existing and proposed occupiers of dwellings. Reduced separation distances for plots 1, 2, 3 & 4 have not been sufficient to warrant a reason for refusal. Separation distances to plots 1, 2 & 3 are not clearly defined in current local policy guidance.

8.3 The appellant states, in respect of reason for refusal 3 that a sufficient number of useable parking spaces are provided in the development and that these comply with local and national policies. The County Council Highways Authority state that there are no objections to the development that cannot be defended at Appeal. The County Council Highways Authority state that any discrepancy on garage size can be adequately controlled by a suitable condition appended to an approval. There are no other highway concerns.

Local Planning Authority Comments on Appellants Statements

8.5 In respect of impacts on the residential amenities of surrounding dwellings, the Local Planning Authority remains of the opinion that the shortfall in the separation distances between the proposal, and numbers 29 Canning Street and 35 Chessher Street is inadequate and will result in an adverse impact on the amenities of these properties. The separation standards are clearly defined with the adopted SPG on New Residential Development. In respect of impacts on number 29 Canning Street, overlooking will be worsened by the bedroom windows in the roof plain on the third floor.

8.6 In the opinion of the Local Planning Authority, in respect of the garage dimensions, those illustrated on the submitted plans for consideration are inadequate, and these are what the decision was based upon. Due to their inadequate dimension, the high levels of on street parking within the area and the provision of only two spaces for the four bed roomed properties, the Local Planning Authority remains of the opinion that the off road parking provision is inadequate and will result in a detrimental impact in respect of highway safety, contrary to policies T5 and BE1, criteria g of the adopted Local Plan.

8.7 In respect of the redevelopment of this parcel of derelict land, whist in principle a residential scheme may be acceptable; the acceptability of any scheme is dependant upon the specific details submitted. In this case the density and scale of the development is considered to comprise overdevelopment of this green parcel of land which provides a transitional plot between the less densely developed area of Canning Street and the more dense, Victorian terraces of Chessher Street. This is clearly illustrated at Appendix 1. Therefore the Local Planning Authority remain of the opinion, that the development is contrary to the intentions of policy BE1, criteria a of the Adopted Local Plan.

9.0 Section 9: Conclusions & Conditions

9.1 With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions:

9.2 The development hereby permitted shall be begun before the expiration of three years from the date of this permission. *REASON: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.*

9.3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials. *REASON: To ensure that the development has a satisfactory external appearance to accord with policy BE1 CRITERIA a of the adopted Hinckley & Bosworth Local Plan.*

9.4 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the dwelling hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. In addition, prior to the first occupation of the dwelling hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. *REASON: In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.*

9.5 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 008, 050 Rev B, 054, Rev C, 054, 053 Rev C Received by the Local Planning Authority on the 1.08.11 *REASON: For the avoidance of doubt and in the interests of proper planning.*

9.6 The windows to be inserted in the south east elevation of plot 7 shall be obscure glazed and retained as such at all times thereafter. *REASON:* In the interests of the residential amenity of the adjacent property in accordance with criteria I of policy BE1 of the adopted Hinckley and Bosworth Local Plan.

9.7 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied. *REASON: To ensure overall compliance with paragraph 109 of the National Planning Policy Framework.*

9.8 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

(i) proposed finished levels or contours
(ii) means of enclosure
(iii) car parking layouts
(iv) other vehicle and pedestrian access and circulation areas.
(v) hard surfacing materials
(vi) planting plans
(vii) written specifications
(viii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

(ix) implementation programme.
REASON: *In the interests of visual amenity to accord with criteria e Policy BE1 of the adopted Hinckley and Bosworth Local Plan.*

9. 9 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
REASON: To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with criteria e policy BE1 of the adopted Hinckley & Bosworth Local Plan

Appendix 1: Site Photograph illustrating the application site and surrounding area



Meters
0 5 10 20 30 40

1:1,000

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