DELEGATED REPORT

Reference:- 11/00789/CONDIT **Parish:- Burbage Parish Council**

Applicant:- Ms Tracey Cleall
3 Balliol Road
Burbage
Leicestershire
LE10 2RE

Location:- 36 Grove Road Burbage Hinckley Leicestershire LE10 2AD

Proposal:- VARIATION OF CONDITION NO. 7 OF PLANNING PERMISSION 10/00700/FUL TO ALLOW A MINIMUM OF CODE LEVEL 1 TO BE ACHIEVED

Introduction:-

This is an application for variation of Condition 7 attached to planning permission 10/00700/FUL.

The previous application (ref. 10/00700/FUL) sought permission for the erection of a new dwelling.

Condition 7 of the planning permission (ref. 10/00700/FUL) requires the dwelling to be built to a minimum of Code Level 3 of the Code for Sustainable Homes (CSH) in line with the requirements of Policy 24 of the Core Strategy. The condition required, prior to commencement of development, the submission of details to demonstrate that the development can meet Level 3. This application seeks to reduce the minimum Code Level required to allow the development to meet a minimum of Code Level 1 of the CSH.

The site is located towards the northern end of Grove Road and is accessed from the private road which provides access to the Burbage Primary School. Works have commenced on site.

The application is accompanied by a Code for Sustainable Homes Pre-Assessment Report carried out by a Certified Code Assessor.

Planning History: -

02/00551/FUL	Side extensions and rear conservatory	Permitted	27.06.2002
09/00021/FUL	Erection of new dwelling	Refused	17.04.2009
09/00369/FUL	Erection of 1no. dwelling	Permitted	10.07.2009
10/00700/FUL	Erection of one new dwelling	Permitted	15.11.2010
89/00058/4	Erection of single storey dwelling on land to the rear of 36 Grove Road Burbage	Refused	21.02.1989
89/00944/4	Kitchen extension	Permitted	22.08.1989
86/00808/4	Conversion of integral garage to habitable room and erection of new attached garage	Permitted	08.10.1986

Consultations:-

No objections have been received from: -
Burbage Parish Council

Development Plan Policies:-

Central Government Guidance
National Planning Policy Framework (NPPF) March 2012

Local Development Framework: Core Strategy (2009)
Policy 4: Development in Burbage
Policy 24: Sustainable Design and Technology

Hinckley & Bosworth Local Plan (2001)
The site is located within the settlement boundary for Burbage.
Policy BE1: Design and Siting of Development (criteria a-i)

Appraisal:-

The application site lies within the settlement boundary of Burbage where there is a presumption in favour of development subject to all other planning matters being adequately addressed.

The principle of the erection of a dwelling has already been established through the earlier grant of planning permission (ref. 10/00700/FUL) therefore the main considerations with regards to this application are the impact of the proposed variation to the approved scheme on its energy efficiency.

Impact on energy efficiency

Background

The dwelling was required to meet a minimum of Code Level 3 in line with the requirements of Policy 24 of the Core Strategy with details to be submitted prior to commencement of development that demonstrate a minimum Code Level 3 could be achieved. An application to discharge all pre-commencement planning conditions was received 01.03.2011 however it was considered that the submitted details failed to meet the requirements of Condition 7 and further information was requested. The requested additional information was not received and following advice from a Certified Code Assessor this application to vary Condition 7 was considered to be a more achievable course of action.

Policy 24 of the Core Strategy aims for all residential homes to meet a minimum of Code Level 3 up to 2013 and a minimum of Code Level 4 from 2013-2016 rising to Code Level 6 from 2016 onwards. This is in response to evidence that shows Hinckley and Bosworth consumes high levels of energy residentially.

Site Constraints

Although the requirements of the pre-commencement condition have failed to be met, in this instance it is important to consider the site constraints, benefits of achieving Code Level 1 and the development that has already taken place. The site has been assessed by a Certified Code Assessor to determine the credits achievable at the current stage of construction. The Assessment shows that all mandatory elements can be met within each category and a potential score of 44.4% can be achieved. Level 1 of the CSH requires a percentage score of 36-47, Level 2: 48-56, Level 3: 57-68. Therefore the score achievable sits high within Code Level 1 and only slightly below the Level 2 threshold.

Due to the site constraints some credits are not available for this property, particularly within Category 9: Ecology, that would usually be simple credits to achieve. For example, ECO5 is not achievable in a two storey property. ECO4 requires the development to improve the ecological value of the site. However due to the number of trees that were required to be removed for the development this is highly unlikely to ever be achieved.

Benefits of Code Level 1

The Code Assessors Report shows the dwelling can achieve Level 1 of the CSH. By meeting Level 1 the dwelling must achieve at least a 10% improvement over Target Emission Rate (TER) as determined by the 2006 Building Regulations standards and an internal potable water consumption of a maximum 120 litres / person / day. When looking to the future energy consumption of the dwelling these factors of the assessment are those which are most likely to provide an effective sustainable dwelling. As shown by the figures, although the dwelling will not meet Level 3, Level 1 is still an improvement compared to a dwelling that does not meet any level of the CSH.

Stage of construction

The dwelling is nearing completion. This therefore renders a number of credits unobtainable as details need to

be submitted prior to construction commencing in order to gain credits. ECO1 – ECO3 are areas where credits can usually be gained, however as the construction works began prior to evidence being gathered all credits within these sections are now unachievable. This is also true for MAN2 – MAN4 which consider the impact and management of the construction works. As the construction is nearing completion the lack of credits in this category brings the overall Code Level rating down but does not affect the sustainability of the dwelling for the future.

Conclusion

The dwelling has failed to meet Level 3 of the CSH as the developer did not consult a Certified Code Assessor prior to works commencing on site. This has left a number of credits unachievable which bring the overall score down. However, the majority of areas where credits have been missed are those which involve the construction management and ecology of the site. As works are already nearing completion credits in these categories can now never be achieved and therefore the benefits of a Code Level 1 dwelling must be considered. As discussed above, a Level 1 dwelling is an improvement on a non-Code rated dwelling and the areas where credits are scored are those that impact upon the energy efficiency of the dwelling for the future. Accordingly it is recommended that planning permission is granted for the amendment to condition 7.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is considered that Level 3 of the Code for Sustainable Homes is now unachievable but the areas where the development fails to meet Level 3 do not effect the future energy efficiency of the dwelling and therefore in this instance Code Level 1 is acceptable.

Hinckley & Bosworth Local Plan (2001):- BE1 criteria a-i

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policy 4, Policy 24..

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawing 10981-PL01 Rev B received 18 April 2012.

4 Before the first occupation of the dwelling hereby permitted the vehicular access and parking areas as shown on the approved plan shall be laid out and surfaced with a hard bound porous material (not loose aggregate) for a distance of at lease 5 metres behind the highway boundary and shall so be maintained at all times.

5 Notwithstanding the submitted plans, the development hereby permitted shall not be commenced until a scheme for the proposed boundary treatment has been submitted to and agreed in writing by the Local Planning Authority, the scheme shall pay particular regard to the requirement for 2.0 metre pedestrian visibility splays to 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. The development shall be implemented in accordance with the approved scheme and shall be so maintained thereafter.

6 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 1 shall be provided to the Local Planning Authority.

7 No development shall take place until a method statement for works within root protection areas of trees on and adjacent to the site has been agreed in writing with the Local Planning Authority and the works shall only take place within the areas in accordance with the method agreed.

Reasons :-

1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

3 For the avoidance of doubt and in the interests of proper planning.

4 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.

5 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.

6 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.

7 To ensure that the trees which may be affected by the works are safeguarded during the course of development, to accord with policy NE12 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Robert Morgan Ext 5775