DELEGATED REPORT

Recommendation Made: 11 November 2011

Reference:- 11/00750/EXT **Parish:- Shackerstone Parish Council**

Applicant:- Mr Frank Brogan
Glebe House
Long Street
Belton
LE12 9TP

Location:- Sycamore Farm 29 Main Street Barton In The Beans Nuneaton Leicestershire

Proposal:- EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 08/01001/FUL FOR THE DEMOLITION OF EXISTING COMMERCIAL BUILDING AND ERECTION OF 2NO TWO STOREY DWELLINGS WITH ASSOCIATED GARAGES AND PARKING

Introduction:-

This is an application for the extension of time of a full application for the demolition of a commercial building and the erection of 2 two storey dwellings on land at Sycamore Farm, Main Street, Barton in the Beans. The original application (ref: 08/01001/FUL) will expire on 10 December 2011.

The commercial building that previously occupied the site has been demolished and removed and the application proposes to replace it with the erection of 2 two storey dwellings of vernacular styling characteristic of the historical core of the village and a number of surrounding properties. The buildings are to be linked by way of a single storey covered parking area, to maintain the sites agricultural context. Car parking is provided within the site at a rate of 3 spaces per unit.

The site is located within the settlement boundary of Barton in the Beans, as defined by the adopted Hinckley and Bosworth Local Plan.

Planning History

08/01001/FUL
DEMOLITION OF EXISTING COMMERCIAL BUILDING AND ERECTION OF 2NO TWO STOREY DWELLINGS WITH ASSOCIATED GARAGES AND PARKING
Approved 10.12.08

07/01424/FUL
DEMOLITION OF EXISTING FARM BUILDINGS AND ERECTION OF THREE MIXED RESIDENTIAL AND OFFICE UNITS, EXTENSION AND ALTERATIONS TO EXISTING DWELLING AND REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION
Approved 28.02.08

Consultations:-

No objections have been received from:-

Director of Environment and Transport (Rights of Way)
Severn Trent Water Limited
Shackerstone Parish Council
Head of Community Services (Land Drainage)

No objection subject to conditions from:-

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

No response has been received at the time of writing this report from:-

Central Networks
Ramblers Association
Site notice
Neighbours

Development Plan Policies:-

National Planning Policy

Planning Policy Statement 3: (PPS3): Housing
Planning Policy Statement 23: (PPS23) Planning and Pollution Control
Community Infrastructure Levy Regulations 2010
Government Circular 05/2005: Planning Obligations

Local Development Framework: Core Strategy (2009)

Policy 13: Rural Hamlets
Policy 24: Sustainable Design and Technology

Hinckley & Bosworth Local Plan (2001)

The site is within the settlement boundary of Barton in the Beans, as defined in the adopted Hinckley and Bosworth Local Plan.

Policy RES5: Residential Proposals on Unallocated Sites
Policy BE1: Design and Siting of Development
Policy T5: Highway Design and Vehicle Parking Standards
Policy NE2: Pollution
Policy NE12: Landscaping Schemes
Policy REC3: New Residential Development - Outdoor Play Space for Children

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance (SPG): New Residential Development
Supplementary Planning Document (SPD): Play and Open Space (2008)
Supplementary Planning Document (SPD): Sustainable Design (2008)

Appraisal:-

The main consideration with regards to this application is whether there have been any material changes in planning policy since the previous application that would affect the determination of the application. There are additional considerations such as if the originally imposed conditions are still required and whether additional conditions or financial contributions should be applied since the introduction of the Community Infrastructure Levy Regulations in 2010.

Changes to Planning Policy

National Planning Policy

Since the previous planning permission was issued in 2008 National Planning Policy Statements have been issued and amended on a number of topics. Of particular relevance to this application is Planning Policy Statement 3: Housing (PPS3). The previous application was considered against Planning Policy Guidance Note 3: Housing published in March 2000. Early editions of PPS3 were issued in 29 November 2006 and 19 January 2010 and have been superseded by the latest issue of PPS3 in June 2010.

The revisions issued on 9 June 2010 with particular relevance to this application were the removal of the

national indicative minimum density of 30 dwellings per hectare. Whilst these changes to policy have taken place, the subsequent letter from the Chief Planning Officer on 15th June 2010 makes clear the amendments provide local authorities the opportunity to prevent over development within residential areas that are considered out of character. The application site is brownfield land within the settlement boundary where the principle of residential development is normally supported subject to it being well integrated with neighbouring buildings and the local area in terms of scale, design, density, layout and access. In this case, there is a mix of types, styles, scales and designs within the street scene including two storey dwellings to the east and north of the site and bungalows to the west. The design of the proposed dwellings is in line with that approved for the live work units on the adjacent site to the south and seeks to maintain the rural character of the site and the village whilst also proving an attractive frontage to Main Street. As such it is considered that the proposal would be characteristic of the surrounding area and well integrated with adjacent dwellings. In addition, it is considered that the development would not overdevelop the site and as such would be in general conformity with the amended PPS3 such that this change in policy would not lead to a different determination on the acceptability of the proposed development.

Regional Policy

In 2008 the scheme would have been considered against Leicester, Leicestershire and Rutland Structure Plan which has since been superseded by the Regional Spatial Strategy for the East Midlands. While this high level policy has changed it is considered that the scheme would also be in accordance with the broad polices of the RSS which still seek to direct new development to urban areas and brownfield land. Whilst the site is not in an 'urban' area as such, it is a small scale development within the settlement boundary of this rural hamlet and an additional consideration in this case was the planning gain that would result from the removal of the large commercial building within the site and the improvement that this would provide both to the visual amenity of the area and to the amenities of the adjacent dwellings on Deacon Rise. Therefore, while the development plan has changed since the original decision was reached it does not lead to a different conclusion on the acceptability of the application.

Core Strategy 2009

The Local Development Framework Core Strategy was adopted in December 2009 and of relevance to the scheme are Policies 13 and 24.

Policy 13: Rural Hamlets is a guide to development in Barton in the Beans and similar sized settlements and supports housing development in the settlement boundary that provides for a mix of housing types and tenures. This policy does not raise issues that would now imply that the development would be unacceptable.

Policy 24:- Sustainable Design and Technology, requires residential units in rural areas to meet sustainability standards set out in 'Building a Greener Future' which is equivalent to and will be subject to the current building regulations. No additional requirement for compliance with the Code for Sustainable Homes is necessary in this case.

Local Plan 2001

The original scheme was granted on the 10 December 2008 and was therefore considered in accordance with the current adopted Local Plan policies, BE1, RES5, REC3, NE12 and T5 and adopted SPG on New Residential Development.

The previous planning permission was not subject to a requirement for any developer contributions. There is still no publicly owned open space within Barton in the Beans and therefore it is not possible to secure a developer contribution in respect of public open space that would meet the requirements of the recently introduced Community Infrastructure Levy Regulations (2010) or saved policy REC3 of the adopted Local Plan or the adopted Play and Open Space SPD (2008)

In summary, since the determination of the previous application whilst there have been changes to national, regional and local plan policies, in principle the policy changes do not raise further issues that would imply that the development would be unacceptable and other material considerations have not changed in a manner that would now lead to the application being refused.

Conditions

Given that the development plan and other material considerations have not changed in a manner that would now lead to the application being refused the other consideration is whether the original conditions are still relevant and whether additional conditions should be applied.

The standard time condition requiring the development to be commenced within three years of the date of any permission is still required to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. The previous condition relating to amended plans should be updated to include reference to all of the relevant approved plans to properly define the permission.

The applicant has requested that the additional details submitted to discharge conditions attached to planning permission 08/0110/FUL relating to external materials, levels, landscaping, boundary treatments, hard landscaping and window details be transferred to and be considered as part of this extension of time application and therefore these conditions will require modification to refer to these specific details and implementation.

The previously imposed conditions relating to landscaping maintenance, completion of the boundary treatments, roadways and parking spaces etc. and removal of permitted development rights are all considered to remain reasonable and necessary to ensure that the development is acceptable in planning terms and are still required.

The previously attached condition relating to drainage of the site is not considered to be necessary as these details will be controlled by and subject to Building Regulations approval and in this case there does not appear to be any uncertainty over network capacity or connection availability.

As a result of the previous agricultural and commercial uses on the site, the Head of Community Services (Pollution) has recommended a condition relating to the submission of a risk based assessment of potential land contamination of the site prior to development commencing. This condition is considered to be reasonable and necessary in this case in order to minimise any risk to future occupiers of the proposed dwellings and make the development acceptable in respect of Policy NE2 of the adopted Local Plan and PPS23.

Conclusion

In conclusion, the development plan and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application. As such, the extension of time for commencement of the scheme for a further three year period is acceptable subject to the imposition of planning conditions.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, The proposed development by virtue of the previous application and the changes in policy since the last permission would not result in a different decision being reached and therefore would be in accordance with the development plan as it would not adversely affect visual amenity or the character or appearance of the site or the wider area, residential amenity of neighbouring dwellings or highway safety.

Hinckley & Bosworth Local Plan (2001):- Policies RES5, BE1, T5, NE2, NE12 and REC3.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policy 13 and Policy 24

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

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: HMD/PD/0164/02; HMD/PD/0164/03; HMD/PD/0164/04 REV A received by the local planning authority on 27 October 2008 and amended plan HMD/PD/0164/01 REV A received by the local planning authority on 27 November 2008.

3 The development hereby approved shall be implemented in accordance with the approved external materials schedule as submitted in the letter received by the local planning authority on 17 December 2010 and shall be constructed of Terca 'Kassandra/Renaissance' red facing bricks (50%/50% mix) and small Blue Staffordshire roof tiles.

4 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

5 The development hereby approved shall be implemented in accordance with the approved soft landscaping schedule, specification and maintenance plan and landscaping layout drawing no. HMD/PD/0198/PD/01A received by the local planning authority on 4 February 2011 and the additional planting specification details contained in the email dated 15 March 2011.

6 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the local planning authority.

7 The development hereby approved shall be implemented in accordance with the approved hard surfacing details as submitted 17 December 2010 and shall be constructed with black tarmacadam to the principal private road and parking areas, a separating granite cobblestone rumble strip and patio areas laid in Marshall 'Tegula' paviours.

8 No dwelling hereby permitted shall be occupied until the boundary treatments as detailed on the approved plans Drawing Nos. HMD/PD/0164/01 Rev A and HMD/PD/0164/04 Rev A have been completed and once provided they shall be maintained as such at all times thereafter.

9 Before the first occupation of any dwelling hereby permitted, the vehicular access, pedestrian and vehicle access points and all roadways, turning areas and parking spaces shall be laid out in accordance with the approved details and maintained as such at all times thereafter.

10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E inclusive shall not be carried out unless planning permission for such development has first been granted by the local planning authority.

11 The development hereby approved shall be implemented in accordance with the specific details of windows, doors, verges and eaves, garage doors, boundary walls and fences received by the local planning authority on 11 August 2010 and 17 December 2010.

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.

a The Risk Based Land Contamination Assessment shall be carried out in accordance with current best practice.

b 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 current best practice.

c If, during the course of development, previously unidentified contamination is discovered, development must cease on the affected 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 the affected 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.

d. The development shall be implemented in accordance with the approved details and retained as such at all times in the future, unless otherwise agreed in writing by the local planning authority.

Reasons :-

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

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

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

4 To ensure that the development is not to the detriment of the privacy and amenities of neighbouring dwellings and to ensure that the development maintains the character of the street scene, in accordance with the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.

5 To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.

6 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.

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

8 In the interests of visual amenity to accord with Policy NE12 of the adopted Hinckley and Bosworth Local Plan

9 To ensure vehicles can access the site, turn and park within the site, in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

10 To ensure that extensions and alterations do not become a source of detriment to neighbouring occupiers' amenity, due to the restricted plots size, in accordance with the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.

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

12 To protect the amenities of the future occupiers of the site and neighbouring properties and to ensure that risks from potential land contamination as a result of the previous uses of the site are minimised to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 23 Planning and Pollution Control.

Notes to Applicant:-

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

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations

2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

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

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

5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

6 This planning permission and planning permission 08/01001/FUL are subject to an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 attached to planning permission 07/01424/FUL. Further advice can be obtained from Hinckley and Bosworth Borough Council: Law and Governance Section on 01455 255831.

7 Attention is drawn to the fact that this permission does not entitle the applicant to obstruct in any way the footpath which crosses the land to which this application relates. If it is intended to divert or stop the footpath the appropriate legal steps must be taken before development commences.

8 The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.

Contact Officer:- Richard Wright Ext 5894