Hinckley & Bosworth Borough Council

*A Borough to be proud of*

**Town and Country Planning Act 1990**

**PLANNING PERMISSION**

| **Name and Address of Applicant** | **Name and Address of Agent (if any)** |
|---|---|
| Mr G Pearson<br>105 Sapcote Road<br>Burbage<br>Hinckley<br>Leicestershire<br>LE10 2AT | Hayward Architects Ltd<br>19 Station Road<br>Hinckley<br>Leics<br>LE10 1AW |

**Part I - Particulars of Application**

| **Date of Application** | **Application No.** |
|---|---|
| 28 April 2011 | 11/00334/EXT |

**Particulars and location of development :**

EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 08/00102/FUL FOR DEMOLITION OF EXISTING RETAIL PREMISES AND BUNGALOW AND ERECTION OF 10 DWELLINGS

**The Bungalow 47 Hinckley Road Burbage Hinckley Leicestershire**

**Part II - Particulars of decision**

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. The proposal will not have a detrimental impact upon residential amenity or highway safety or upon the character of the street scene. Therefore the proposal is considered acceptable.
Hinckley & Bosworth Borough Council Core Strategy (2009) Policy 4, Policy 5, Policy 16, Policy 19, Policy 24
Hinckley & Bosworth Borough Council Local Plan (2001) :- T5, T9, NE2, IMP1, RES5, REC2, REC3, and BE1

**In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council grants permission for the carrying out of the development referred to in Part I hereof in accordance with the application form and plans submitted, subject to the following conditions :-**

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

2. 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.

3. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority

which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

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. 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) means of enclosure
(ii) car parking layouts
(iii) other vehicle and pedestrian access and circulation areas.
(iv) hard surfacing materials
(v) minor artefacts and structures (e.g. details of refuse or other storage units and access and car park lighting)
(vi) planting plans
(vii) written specifications
(viii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
(iv) implementation programme.

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. Notwithstanding the submitted details, before the commencement of development, details of all means of enclosure and boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved details. This shall include a 1.8 metre high wall between the application site and 49 Hinckley Road.

8. 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 - E shall not be carried out on the plots adjacent to the south western boundary of the site and development within Schedule 2, Part 1; Classes A and E shall not be carried out on the plot adjacent to the northern side of the proposed access unless planning permission for such development has first been granted by the Local Planning Authority.

9. 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.

10. The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.

11. Prior to the commencement of development, the existing vehicular access to Hinckley Road shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that has been submitted to the Local Planning Authority and agreed in writing. The development shall then be implemented in accordance with the approved scheme.

12. Before first occupation of the dwelling hereby permitted, its access drive and any turning space shall be surfaced with a hard bound porous material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

13. Notwithstanding the submitted details, any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 6 metre control radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.

14. Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment 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.

15. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 02C, 03C, 02B, 01B, 04, 06 received by the Local Planing Authority on the 18/5/11

16. 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.

17. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 02C received on the 25.03.08; 04, 03C, 01B received on the 04.03.08

The reasons for the conditions are :-

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

2. To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.

3. To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.

4. To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

5. To enhance the appearance of the development to accord with policy BE1 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. In the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

8. To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property and in the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

9. To enable a vehicle to stand clear of the highway to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.

10. To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.

11. To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

12. To reduce the possibility of deleterious material being deposited in the highway (loose stones etc) to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan.

13. 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 to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

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

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

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

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

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. The applicant is advised that a similar palette of natural materials as used in the adjacent Leys development will be expected to discharge the standard materials condition.

6. In relation to condition 3 and 4 advice from Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.

7. With regards to condition 11 the scheme shall include a timetable for the closure of the existing access and the opening of the new access.

8. With regards to condition 11, 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.

9. The existing school warning sign associated flashing amber unit along with the adjacent lamp column will need relocating as a consequence of the access works. All works shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the highway authority.

Date : 13 September 2011

**BILL CULLEN**
PROPER OFFICER OF THE COUNCIL

## NOTES

1. It will be most helpful if the application number shown overleaf is quoted in all correspondence.

2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review.

3. If the applicant is aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act 1990 within six months (see para 2a below) of the date of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Room 305(K), Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, by telephoning 0117 372 6372 or online at www.planningportal.gov.uk/planning/appeals/). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that the permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to the directions given under the order. He does not in practice refuse to entertain appeals solely because the decision by the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 5th September 2003 must be made within six months of the date of this notice.

4. If permission to develop land is granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

5. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

6. This permission covers only consent under the Town and Country Planning Acts and does not give permission to demolish a Listed Building, for which separate consent is required. Amongst other things the consent of the Council of the district in which the land is situated may be required under the Building Regulations and if the proposals affect land within the limits of the highway (that is between the highway fences or hedges) the separate consent of the Highway Authority may also be required. Steps to obtain the necessary further consents should be taken before proceeding with the development.

### SHOPS, OFFICES, FACTORIES, EDUCATIONAL BUILDINGS & BUILDINGS TO WHICH THE PUBLIC ARE TO BE ADMITTED : ACCESS AND PROVISION FOR THE DISABLED PERSONS

1 The Local Planning Authority is required to bring to your attention the requirements of the Disabled Persons 1981, Building Regulations 1991 "Access and facilities for Disabled People" document M and the Chronically Sick & Disabled Act 1970 (as amended 1976) (Sections 4.7.8 and 8A) requiring the provision of access facilities, car parking and toilets for the disabled and the provision of signing indicating what provision has been made for disabled persons within the building. Your attention is also drawn to the Code of Practice B.S 5619 "Design of Housing for the convenience of Disabled People", 1978 and Code of Practice, B.S. 5810 : 1979, "Access for the Disabled to buildings" available from the British Standards Institution, 2 Park Street, London W1A 2BS. (Tel 071-629-9000) and (in so far as educational buildings are concerned), to Design Note 18 "Access for the Physically Disabled to Educational Buildings."

2 The buildings to which these requirements apply are :-

a) Buildings to which the public are to be admitted to which Section 4 of the Chronically Sick & Disabled Act 1970 (as amended 1976) applies.

b) Offices, Shops & Railway Premises as defined in the Offices, Shops & Railway Premises Act 1963 or premises deemed to fall within the Act.

c) Factories as defined by Section 175 of the Factories Act 1961.
Educational Buildings as defined by Section 29B of the Disabled Persons Act 1981.

**PPNOTES – V2.1**