DELEGATED REPORT

Recommendation Made: 20 October 2011

Reference:- 11/00729/CONDIT **Parish:- Burbage Parish Council**

Applicant:- Mr John Knapp
5 Sketchley Hall Gardens
Burbage
Hinckley
Leicestershire

Location:- 5 Sketchley Hall Gardens Burbage Hinckley Leicestershire LE10 3JP

Proposal:- VARIATION OF CONDITION NO 3 OF PLANNING PERMISSION 97/00933/FUL TO ALLOW IMPLEMENTATION OF PERMITTED DEVELOPMENT RIGHTS

Introduction:-

This application seeks to remove condition 3 attached to planning permission 97/00933/FUL. Condition 3 removed permitted development rights from the property to protect the amenities of local residents and the trees on the site which are protected by a Tree Preservation Order (Burbage (Sketchley Hall) Tree Preservation Order 1967).

Relevant Planning History

95/00458/OUT	Erection of 5 detached dwellings and road improvements	Approved	25.08.95
95/00462/FUL	Erection of 2 dwellings and road improvements	Approved	25.08.95
95/00821/FUL	Erection of 2 detached dwellings and access	Approved	7.02.96
96/00680/FUL	Erection of 4 detached dwellings and improvements to the highway	Approved	16.10.96
96/00878/FUL	Erection of 1 dwelling	Approved	20.12.96

Consultations:-

No objections received

Development Plan Policies:-

Hinckley and Bosworth Local Plan
Policy BE1

Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Appraisal:-

Conditions to be valid and enforceable should serve some useful planning purpose, relate to the development, not be unreasonable and that the meaning is certain.

The condition was imposed for the following reason ‘To safeguard neighbours amenities and trees within the site’.

It is considered that whilst the condition relates to the development and is clear in its meaning, the issues for consideration are whether the condition is reasonable and serve some useful planning purpose.

The application property is a large executive detached dwelling in a small development of similar dwellings. The dwellings are sited close together but have reasonable gardens to the rear. The General Permitted Development Order (GPDO) was updated in 2008, and the new regulations have been designed to take into account the size and scale of the existing property. Factors including the distance from rear boundaries, side boundaries and height of development are now considered. However, the new regulations only prevent

extensions to the principle elevation where they face a highway. Due to the design of the site, the dwelling does not face a highway and therefore if all permitted development rights were reinstated, the property could be extended to the front without any restrictions. This could result in the loss of off street parking space and obstruction of the garages, as well as a design that would be out of keeping with the street scene. The local authority would therefore want to retain control over the extensions to the front of the dwelling.

Given the size of the plots and character of the dwellings and surrounding area small extensions to the rear and side and alterations permitted by the GPDO would not result in unacceptable development. It is therefore considered that there is no longer a requirement to remove permitted development rights in the interest of protecting the amenities of neighbouring residents.

The site is covered by a group Tree Preservation Order (TPO) imposed by the County Council in 1967. This is a blanket order that covers the whole site. The application site does not contain any mature trees and therefore it is not possible to justify the condition on the basis to protect the trees.

It is therefore considered that the condition would serve come useful planning purpose preventing unlimited development to the front of the dwelling. However this is limited to the front of the property only and does not apply to the side or rear of the property. The condition does not serve a purpose in protecting the trees. It is therefore considered reasonable, to amend the condition to enable development allowed by permitted development rights to the rear and side of the property, however still restrict extensions to the front of the dwelling.

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 changes in legalisation and works to trees on site since the original application was granted the amendment of the condition would be in accordance with the development plan.
Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1

1 This permission shall relate to the variation of Condition 3 of permission 97/00933/FUL dated 27.01.98 only. All other conditions of the original permission remain, unless subsequent variations have been made.

2 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no extensions shall be permitted to the front elevations of the property known as 5 Sketchley Hall Gardens defined as being between points A and B and B and C on the attached plan.

Reasons :-

1 To ensure that all other conditions attached to the original consent still apply.

2 To preserve the appearance of the streetscene in accordance with Policy BE1 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:- Sarah Fryer Ext 5682