DELEGATED REPORT

Recommendation Made: 14 April 2011

Reference:- 11/00161/EXT **Parish:- Barwell Parish Council**

Applicant:- Mr Richard Wileman
14 Hansom Road
Hinckley
Leicestershire
LE10 1LL

Location:- Land Adjacent To 142 Kirkby Road Barwell Leicester Leicestershire

Proposal:- EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 08/00018/FUL FOR ERECTION OF THREE DWELLINGS AND ASSOCIATED GARAGES.

Introduction:-

This in an application for an extension of time for extant planning permission (ref: 08/0018/FUL) for the erection of three dwellings and associated garages. The previous application was a full submission and expired on the 6 March 2011, but the extension of time application has been made prior to the expiry date.

The scheme proposed the erection of one set of two storey detached dwellings, and one detached dwelling each of three bed configuration with a single detached garage adjacent to each dwelling. There is also a single garage proposed to 2 Byron Street.

The site, previously garden is currently vacant and overgrown with vegetation. The site is bordered to the north by Byron Street, to the south by residential gardens of the properties on Kirby Road and to the east by residential properties on Byron Street,

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

Planning History:-

08/00018/FUL	Erection of three dwellings and associated garages	Permitted	06/03/2008
04/00696/FUL	Erection of three dwellings and garages and detached Garages to number 2 Byron Street	Permitted	30/07/2004

Consultations:-

No objection from:-

Barwell Parish Council
Environment Agency
Head of Community Services (Pollution)
Head of Community Services (Land Drainage)

No objection subject to conditions from:-

Severn Trent Water
Director of Environment and Transport (Highways)
Head of Business Development and Street Scene Services (Waste Minimisation)

Site notice displayed and neighbours notified.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development

Planning Policy Statement 3 (PPS3): Housing

The Community Infrastructure Levy (CIL) Regulation 2010

Government Circular 05/2005: Planning Obligations

Local Development Framework Core Strategy 2009

Policy 3: Development in Barwell

Policy 19: Green Space and Play Provision

Policy 24: Sustainable Design and Technology

Hinckley and Bosworth Local Plan 2001

Policy IMP1: Contributions towards the Provision of Infrastructure and Facilities'

Policy RES5: Residential Proposals on Unallocated

Policy BE1: Design and Siting of Development
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Policy T5: Highway Design and Vehicle Parking Standards
.
Policy REC3: New Residential Development - Outdoor Play Space for Children

Supplementary Planning Guidance/Documents

The Council's Supplementary Planning Guidance (SPG): New Residential Development

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

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

Other Material Planning Documents

Greater Flexibility for Planning Permissions

Appraisal:-

The main considerations 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 and if the originally imposed conditions or additional conditions still required.

Changes to Policy

Central Government Guidance

Since 2008 National Planning Policy Statements have been both issued and amended on a number of topics.

Planning Policy Statement 3 (PPS3) was revised on 9th June 2010 and removed private residential gardens from the definition of previously developed land and removed the national indicative minimum density of 30 dwellings per hectare.

Following the changes to PPS3, it is considered the development within this garden land falls within a 'Greenfield' classification. The subsequent letter from the Chief Planning Officer on 15th June 2010 makes clear these amendments provide Local Authorities the opportunity to prevent over development and to determine for themselves the best locations and types of development. It is also interpreted that the changes are to primarily prevent over development within residential areas that are considered out of character.

The Council has considered that where development falls within Greenfield classification but is within a defined settlement boundary, that character density, mass, layout and design should be fundamental to the determination of the application alongside the development being carried out in accordance with relevant plan policies.

The character of Byron Street is that of development that has a prominent road frontage. By virtue of the proposed dwelling sited to the road frontage it is considered that the development takes the form of the surrounding dwellings.

It is considered that the proposed dwellings would occupy a similar footprint to that of the surrounding residential dwellings and two storey proportions are also considered common within this setting. There are adequate separation distances and overall it is considered that the scheme would not overdevelop the site. The character of the area would not be compromised and it is considered that the scheme would be in general conformity with PPS3.

It is considered that whilst amendments have been made to PPS3, they do not raise issues that would now imply that the development would be unacceptable.

Regional Policy

In 2008 the scheme would have also 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.

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

The Local Development Framework Core Strategy was adopted in December 2009 and of relevance to the scheme is Policy 3. This is an overarching policy to guide development in Barwell where there is support to deliver a minimum of 45 new residential dwellings within the settlement boundary of Barwell. As such, this policy is in principle, in support of the application.

Policy 24 requires all new dwellings in Barwell to be built to a minimum of Level Three of the Code for Sustainable Homes. The Council is actively applying the requirements of Policy 24 unless material considerations indicate that it cannot be reasonably achieved. In this case there are no arising material considerations that suggest that Code Level 3 compliance cannot be achieved.

Local Plan Policy

The original scheme was granted on the 12 March 2008 therefore it was considered in light of the current adopted Local Plan Policies.

In summary, the development plan and other material considerations have not changed in a manner that would now lead to the application being refused.

Changes to Conditions

Therefore 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 additional conditions should be applied.

Since the determination of the previous application the Local Development Framework Core Strategy has been adopted (2009) and as discussed above Policy 24 requires that all new residential development within Hinckley, Burbage, Barwell and Earl Shilton will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. As such it is considered necessary to attach an additional condition to secure this.

The Head of Business Development and Street Scene Services (Waste Minimisation) has requested that a condition be imposed for a scheme that makes provision for waste and recycling storage across the site has been submitted to and approved in writing by the Local Planning Authority. In the interests of preserving the visual amenity of the area it is considered that this condition be imposed.

Severn Trent Water raises no objection to the proposal but have both asked for conditions in respect of drainage details to be submitted. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulations and by Severn Trent Water (as the service provider) and the drainage scheme that has been approved by the planning authority is usually subject to change. In line with recent appeal decisions and Planning Inspector opinion, it has been agreed locally that drainage details will no longer be required to be subject to a planning condition unless there is uncertainty over network capacity or connection availability. Accordingly, in this case no drainage conditions are considered necessary.

The other remaining original conditions and the reasoning for their imposition have been considered and it is concluded that they are all necessary.

Financial Contributions

The sum of £5,160 has already been paid by the applicant as a contribution towards off-site public open space, in respect of the development hereby approved and not other contributions are required that would met the tests out in the CIL regulations 2010.

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. It is considered that all other remaining conditions and additional conditions as stated for the reasons outlined in the report should be imposed. As such, the extension of the scheme for a further 3 year plan period is acceptable subject to the imposition of the 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 and would be to the detriment of visual or residential amenity or highway safety.

Hinckley & Bosworth Local Plan (2001):- Policies IMP1, RES5, BE1, T5, REC3.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policy 3, 19, 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 details: Location and Block Plan (3831-LOC) and Plans and Elevations (3831-1 Rev B) received by the Local Planning Authority on 1 March 2011.

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.

4 The proposed driveways shall be hard surfaced before the dwellings to which they relate are first occupied.

5 Before the first occupation of the dwellings hereby permitted 2.0 metre x 2.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of each access with nothing within those spays higher than 0.6 metres above ground level, and shall be so maintained at all times thereafter.

6 Car parking shown within the curtilage of each dwelling, including any garage space shall be provided before first occupation of that corresponding unit and shall thereafter permanently remain available for such use.

7 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.

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,B,C,D,E shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

9 The window to be inserted in the first floor side elevations of the proposed dwellings shall be obscure glazed and retained as such at all times thereafter.

10 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the apartments 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 apartments 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.

11 Before first occupation of the dwellings, hereby approved a scheme that makes provision for waste and recycling storage across the site has been submitted to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities for residents/collection crews, and adequate collection point space at the adopted highway boundary.

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 reduce the possibility of deleterious material being deposited in the highway (loose stones etc) and causing a danger to users of the highway in accordance with policy T5 of the adopted Hinckley and Bosworth Local Plan.

5 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.

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

7 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

8 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

9 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

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

11 In the interests of visual amenity, to accord with Policy BE1 of the adopted Hinckley & 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).

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.

Contact Officer:- Ebbony Mattley Ext 5691