HBJ Gateley Wareing

18 SEP 2009

Date 17 September 2009

Our ref: RXH\4341988.1\50350.196\ZZW

Your ref:

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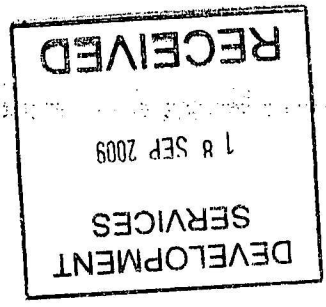

Dear Mr Hicks

Land adjacent to 391 Coventry Road, Hinckley, Leicestershire
Planning Appeals for Removal of Conditions 09/00343/CONDIT and 09/00340/CONDIT
Appeal References APP/K2420/A/09/2111258/NWF and APP/K2420/A/09/2111259/NWF

Further to the above please find attached copy documents requested by the Planning Inspectorate in respect of the above appeals.

I look forward to hearing from you in respect of agreed dates for the Inquiry.

Best wishes

Yours sincerely

Robin Hooper
Director of Planning Services
for HBJ Gateley Wareing LLP

Encs

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INVESTOR IN PEOPLE Lexcel

WINNER LEGAL BUSINESS AWARDS 2008 NATIONAL/REGIONAL FIRM OF THE YEAR

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Registered Number: OC305387. Registered Office: One Eleven, Edmund Street, Birmingham B3 2HJ.
A list of members is open to inspection at the registered office. Regulated by the Solicitors Regulation Authority.

MD 317 / T16.

GOVERNMENT OFFICE
FOR THE EAST MIDLANDS

Stoncleigh Planning Partnership
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Nottingham NG1 5GG
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Your Ref: RAD/LG/CH09

Our Ref: EMP/APP/K2420/A/99/1019655
/1019657

Date: 9 May 2000

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 AND 320
LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
PLANNING APPEALS BY CREST STRATEGIC PROJECTS LTD AGAINST NON-DETERMINATION OF PLANNING APPLICATIONS FOR
1) RESIDENTIAL DEVELOPMENT ON LAND SOUTH OF COVENTRY ROAD AND NORTH OF THE A5, HINCKLEY (APPLICATION No 99/00047/OUT)
2) EMPLOYMENT USES B1, B2 AND B8 ON LAND NORTH OF COVENTRY ROAD AND EAST OF HARROWBROOK INDUSTRIAL ESTATE, HINCKLEY (APPLICATION No 99/00048/OUT)
APPLICATIONS FOR AWARDS OF COSTS BY CREST STRATEGIC PROJECTS LTD AND BY HINCKLEY AND BOSWORTH BOROUGH COUNCIL

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Jonathan G King BA(Hons) DipTP MRTPI, who held a public local inquiry into your clients' appeals under section 78 of the 1990 Act against the failure of Hinckley and Bosworth Borough Council to determine within the prescribed period their applications for outline planning permission for:

A) residential development with associated infrastructure, public open space and landscaping on land south of Coventry Road and north of the A5, Hinckley; and

B) employment uses B1, B2 and B8 on land north of Coventry Road and east of Harrowbrook Industrial Estate, Hinckley.

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2. At the inquiry, applications for costs were made by your clients against Hinckley and Bosworth Borough Council and by the Council against your clients and this is dealt with separately below.

THE APPEALS

3. A copy of the Inspector's report is enclosed and a copy of his conclusions is annexed to this letter. He recommended that, in the light of his considerations in paragraphs 80 to 119 of his report, both appeals be allowed subject to conditions.

4. Since the inquiry was held, a revised version of PPG3 has been published. The Secretary of State does not believe that this raises any new issues not covered at the inquiry, which would affect his decision.

5. The Secretary of State has considered all post-inquiry representations but does not consider that they raise any issues which would affect his decision.

6. The Secretary of State agrees with the Inspector's conclusions and accepts his recommendations. Therefore, for the reasons given by the Inspector, the Secretary of State hereby:

a) allows appeal A and grants outline planning permission for residential development on land south of Coventry Road and north of the A5, Hinckley in accordance with application No 99/00047/OUT and subject to the following conditions phrased to accord with Department of the Environment Circular 11/95:

i) approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced;

ii) plans and particulars of the reserved matters referred to in condition i) above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site shall be submitted in writing to the local planning authority and shall be carried out as approved;

iii) application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission;

iv) the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters, whichever is the later;

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v) details of the phasing of the development shall be submitted to and approved in writing by the local planning authority;

vi) no development shall commence until a scheme for the provision of surface and foul water drainage works, which shall be on separate systems, shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the drainage works have been completed in accordance with the approved scheme; 1

vii) no development shall commence until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the scheme has been completed in accordance with the approved details; 2

viii) details of the floor levels of the proposed dwellings in relation to the existing ground level and finished levels of the site shall be submitted to and approved in writing by the local planning authority;

ix) there shall be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank or watercourse and/or 3 metres of any side of an existing culverted watercourse, inside or along the boundary of the site, unless agreed otherwise in writing by the local planning authority;

x) no development shall take place within the application area until the applicant has submitted a detailed design and methods statement and archaeological impact assessment, including existing and proposed ground levels, and layout depths of all foundations, service trenches, drains, landscaping and other ground works, and all revisions of such for archaeological assessment and prior written approval by the local planning authority and no development shall take place except in accordance with the approved details; 3

xi) no development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme. The archaeological works shall be carried out by a suitable, qualified body acceptable to the local planning authority; 4

xii) before development commences, a scheme of noise control measures shall be submitted to and approved in writing by the local planning authority. These measures shall include provisions to mitigate noise from the A5(T), the nearby railway, Paynes Garage and Hinckley Stadium Mitigation shall comprise an appropriate combination of separation and acoustic screening. No dwelling shall be occupied until the approved scheme has been implemented; 5

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✓ xiii) there shall be no residential development within 40 metres of the centre line of the A5(T) Hinckley;

✓ xiv) all details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in "Highway Requirements for Development". No work shall commence until such details which shall include parking and turning facilities, access widths, gradients, surfacing and visibility splays have been submitted to and approved in writing by the local planning authority;

xv) no development of the site shall commence until the access works on to Coventry Road in general accordance with drawing [redacted] have commenced and no dwelling hereby approved shall be occupied until such access works are substantially completed; 6

manfete xvi) no more than 20 dwellings shall be occupied on the site until the cycle link between points A and B on drawing No [redacted] and the proposed toucan shown on drawing No [redacted] have been constructed and substantially completed in general accordance with the plans and no more than 100 dwellings, or if development has already commenced on the adjacent industrial site (application No 99/00048/OUT) no more than 50 dwellings, on the site shall be occupied until the cycle link between points B and C have been constructed and substantially completed in general accordance with the plans unless otherwise agreed in writing by the local planning authority;

Nutts Lane xvii) no more than 100 dwellings or, if the development has already commenced on the adjacent proposed industrial site (application No 99/00048/OUT), no more than 50 dwellings shall be occupied until the improvements shown on [redacted] together with improvements to the Nutts Lane bridge as shown on Drawing [redacted] or such other similar schemes have been submitted to and approved in writing by the local planning authority in consultation with the Highways Agency and the highway authority and have thereafter been substantially completed;

Coventry Road Access xviii) no more than 100 dwellings shall be occupied on the site until the proposed junction improvements shown on drawing No [redacted] have been substantially completed in general accordance with the drawing;

xix) no more than 100 dwellings shall be occupied on the site until the internal link road between the two Coventry Road access points has been substantially completed;

xx) no dwelling hereby permitted shall be occupied until a comprehensive Green Travel Plan has been submitted to and approved by the local planning authority. Thereafter, the Plan shall be fully implemented in accordance with the approved details; 7

xxi) no development shall commence until details of a scheme for the provision of 20% of the number of dwellings hereby approved being affordable dwellings, including the phasing of such 8

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provision and details of the transferral of such dwellings to a registered Housing Association, shall be submitted to and approved in writing by the local planning authority. No development on the site shall occur other than in accordance with the approved scheme. These dwellings shall be first occupied by tenants of or shared owners with a registered Housing Association save that if within three years of the commencement of development any or all of the dwellings have not been transferred to a registered Housing Association then those dwellings shall be occupied in accordance with a scheme submitted to and approved in writing by the Borough Council in order to ensure the provision of affordable housing by other means;

xxii) before development commences, a scheme which shall include public open space, provision of play equipment and canal buffer together with phasing, location and maintenance of such areas shall be submitted to and agreed in writing by the local planning authority. The scheme shall be landscaped, laid out and made available for public recreation and cycle/footways provided and surfaced within the first appropriate planting season following the occupation of the 200th dwelling on the site; 9

xxiii) no development shall take place until place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include all existing trees and hedges on the site which are to be retained and the provision to be made for screening by walls and fences. All landscaping works shall be carried out as approved; 10

xxiv). The approved landscaping scheme shall be carried out during the first appropriate planting season following the date when the proposed dwellings are ready for occupation. The approved 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; and

xxv) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, development within Schedule 2, Part1, Class A-E shall not be carried out on any of the dwellings identified as affordable dwellings in condition xxi) above before planning permission for such development has first been granted by the local planning authority;

and

b) allows appeal B and grants outline planning permission for employment uses B1, B2 and B8 on land north of Coventry Road and east of Harrowbrook Industrial Estate, Hinckley in accordance with application No 99/00048/OUT subject to the following conditions phrased to accord with Department of the Environment Circular 11/95:

i) approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced;

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ii) plans and particulars of the reserved matters referred to in condition i) above, relating to the siting, design and external appearance of any buildings to be erected and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved;

iii) application of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission;

iv) the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

v) details of the phasing of the development shall be submitted to and approved in writing by the local planning authority;

vi) no development shall commence until a scheme for the provision of surface and foul water drainage works, which shall be on separate systems, has been submitted to and approved in writing by the local planning authority. The drainage works shall be completed in accordance with the approved scheme prior to the occupation of any buildings on the site;

vii) no development shall commence until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the local planning authority. No building on the site shall be occupied until the scheme has been completed in accordance with the approved scheme;

viii) there shall be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank or watercourse and/or 3 metres of any side of an existing culverted watercourse, inside or along the boundary of the site, unless agreed otherwise by the local planning authority;

ix) prior to being discharged into any watercourse, surface water, sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

x) prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

xi) there shall be no discharge of foul or contaminated drainage from the site into either ground water or any surface waters, whether direct or via soakaways;

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xii) no development shall take place within the application area until the applicant has submitted a detailed design and methods statement and archaeological impact assessment, including existing and proposed ground levels, and layout and depths of all foundations, service trenches, drains, landscaping and other ground works, and all revisions of such for archaeological assessment and prior written approval by the local planning authority, and no development shall take place except in accordance with the approved details;

xiii) no development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the local planning authority. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition. The archaeological works shall be carried out by a suitable, qualified body acceptable to the local planning authority;

xiv) before development commences, a scheme of noise control measures shall be submitted to and agreed in writing by the local planning authority. These measures shall include provisions to mitigate noise from the development and access road into the area to the dwellings on Coventry Road and shall be implemented prior to the occupation of any building on the site;

xv) within a distance of 150 metres from the edge of the carriageway of Coventry Road, development shall comprise of Class B1 or B8 units only. Within this area there shall be no working between 7.00pm and 7.00am on Monday to Saturday inclusive nor at any time on Sunday and the development shall accord with this at all times thereafter;

xvi) all details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in "Highway Requirements for Development". No work shall commence until such details, which shall include parking and turning facilities, access widths, gradients, surfacing and visibility splays, have been submitted to and approved in writing by the local planning authority.

xvii) no more than 5,000 square metres floorspace on the site or, if the development has already commenced on the adjacent proposed residential site (application No 99/00047/OUT), no more than 2,500 square metres floorspace of new building shall be occupied until the cycle link between points A and C indicated on drawing No 12088/22 Revision A has been constructed and substantially completed unless otherwise agreed in writing by the local planning authority;

xviii) none of the industrial units on the site shall be occupied until the proposed junction improvements shown on drawing No 12088/03C have been substantially completed;

xix) before work commences, a scheme which shall include a canal buffer, together with its location shall be submitted to and agreed in writing by the local planning authority. The scheme shall be

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landscaped, laid out and maintained and made available for public recreation and provided within the first appropriate planting season following the occupation of the first industrial unit;

xx) 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. The details shall include all existing trees and hedges on the site which are to be retained, the provision for screening by walls and fences and the provision of open spaces within the site. All landscaping works shall be carried out as approved.

xxi). The approved landscaping scheme shall be carried out within the first appropriate planting season following the date when any of the proposed buildings are ready for occupation. The 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;

xxii) no more than 5000 square metres of employment floorspace or, if development has already commenced on the adjacent residential site (application No 99/00047/OUT), no more than 2500 square metres of floorspace shall be occupied until the improvements shown on TPK Drawing No 12088/14 Revision B, together with improvements to the Nutts Lane bridge as shown on Drawing No 12088/13 Revision A, or such other similar schemes have been submitted to and approved in writing by the local planning authority in consultation with the Highways Agency and the highway authority and have thereafter been substantially completed;

xxiii) no building hereby permitted shall be occupied until a comprehensive Green Travel Plan has been submitted to and approved in writing by the local planning authority. Thereafter the Plan shall be fully implemented in accordance with the approved details.

7. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

8. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused, or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

9. Attention is drawn to the fact that this permission does not entitle the developer to obstruct any footpaths which cross the sites. If it is found necessary to stop up or divert a footpath, application should be made to the local planning authority for them to consider making an order under section 257 of the Town and Country Planning Act 1990. Attention is also drawn to the enclosed note relating to the Chronically Sick and Disabled Act 1970.

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10. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged in the High Court within 6 weeks of the date of this letter.

COSTS

11. The submission made on behalf of your clients in support of their application for costs, the reply on behalf of the Borough Council, the submission made on behalf of the Borough Council in support of their application for costs, the reply on behalf of your clients and the Inspector's conclusions are set out in the Inspector's costs reports, copies of which are enclosed.

12. In planning appeals, the parties are normally expected to meet their own expenses irrespective of the outcome of the appeal and costs may only be awarded in exceptional circumstances against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily Accordingly, the applications for costs have been considered in the light of the Department of the Environment Circular 8/93, the Secretary of State's decisions on the appeals, the Inspector's costs reports and all the relevant circumstances.

Your Clients' Application for Costs

13. The Inspector concluded, with regard to your clients' application for full costs, that the inquiry could not have been avoided. The Council did not act unreasonably and the appellants were not caused to incur or waste expenditure unnecessarily. A full award was, therefore, not justified.

14. However, with regard to your clients' application for partial costs concerning agricultural land quality, he concluded that unreasonable behaviour, as described in Circular 8/93 had been demonstrated and your clients had been caused to incur or waste expenditure unnecessarily in the preparation of evidence on that subject. He recommended that a partial award of costs be made.

15. After careful consideration of the evidence, the Secretary of State agrees with the Inspector's conclusions in his costs report and accepts his recommendation. Accordingly he has decided that a partial award of costs against Hinckley and Bosworth Borough Council, on grounds of unreasonable behaviour is justified in the particular circumstances. An award of costs is therefore made accordingly.

16. Accordingly, the Secretary of State for the Environment, Transport and the Regions in exercise of his powers under section 250(5) of the Local Government Act 1972 and sections 78 and 320 of the Town and Country Planning Act 1990, and all other powers enabling him in that behalf, HEREBY ORDERS that Hinckley and Bosworth Borough Council shall pay to Crest Strategic Projects Ltd their costs of the appeal proceedings, limited to those costs incurred in refuting resolved reason to refuse No iii) relating to Appeal A, as specified below, such costs to be taxed in default of agreement as to the amount thereof. The subject of the proceedings was an appeal under section 78 of the 1990 Act against the failure of Hinckley and Bosworth Borough Council to determine within

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the prescribed period an application for planning permission for residential development. Resolved reason No iii) for refusal of permission was as follows:

"iii) The proposed development will result in the loss of Grade 3a agricultural land which is amongst the best and most versatile agricultural land."

17. You are now invited to submit to Hinckley and Bosworth Borough Council, to whom a copy of this letter has been sent, details of those costs with a view to reaching agreement on the amount. A copy of the guidance note on taxation referred to in paragraph 5 of Annex 5 to DOE Circular 8/93 is enclosed.

Hinckley and Bosworth Borough Council's Application for Costs

18. The Inspector concluded that your clients' behaviour was not unreasonable, as described in Circular 8/93 and that a partial award of costs relating to the Council's time of one hour incurred hearing the application by your client concerning the expense of preparing agricultural evidence was not justified.

19. Having considered all the evidence available, the Secretary of State agrees with the Inspector's conclusions in his costs report and accepts his recommendation. Accordingly, he has decided that an award of costs against your clients on grounds of unreasonable behaviour, is not justified in the particular circumstances. The application is therefore refused.

Yours faithfully

WENDY WEBSTER (MRS)
Authorised by the Secretary of State
to sign in that behalf

Design and Access Statement

Removal of Planning Condition on Permission 05/00615/FUL
Land adjacent to 391 Coventry Road
Hinckley
Leicestershire

Application 09/00340/CONDIT

HBJ Gateley Wareing
One Eleven
Edmund Street
Birmingham B3 2HJ

DESIGN AND ACCESS STATEMENT

Design

As the application is to remove condition 21 of planning permission 05/00615/FUL requiring improvements to the highway before the occupation of more than 2500 square metres of floorspace at the at the development is occupied design issues are not relevant.

Access

Access to the site is from the signalised junction on Coventry Road constructed in accordance with the conditions to planning permission 05/00615/FUL.

It is anticipated that the majority of vehicles visiting the site will travel along the A5 and turn onto the Coventry Road at the roundabout to which condition 21 relates.

As will be noted from the highways reports produced by PFA Consulting, the design of the existing roundabout is such that it met the requirement for access to the development as at the date of grant the planning permission.

In fact, the access from the A5 to the Coventry Road is sufficient in order to accommodate the traffic expected to be generated by the development had the application been submitted as at today's date.

The condition is therefore not necessary in planning terms or relevant to the development. Neither is it reasonable to place the burden of the works required by the condition upon the single development permitted by planning permission 05/00615/FUL.

In respect of access within the site, this is not a consideration in respect of condition 21.

HINCKLEY & BOSWORTH BOROUGH COUNCIL

Town and Country Planning Act 1990

Name and Address of Applicant	**Name and Address of Agent (if any)**
Tungsten Properties Ltd	Redline
Mill House	Town Planning And Development Consultants
Chapel Lane	Bridge Cottage
Clipston	Finwood Road
Leicestershire	Rowington
LE16 9RL	Warwickshire

Part I - Particulars of Application

Date of Application	**Application No.**
2 October 2007	07/01150/FUL

Particulars and location of development:

MIXED COMMERCIAL DEVELOPMENT COMPRISING B1 B2 B8 AND SUI GENERIS USES

Land Adjacent To 391 Coventry Road Hinckley Leicestershire

Part II - Particulars of decision

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1; EMP4; BE7; REC6; T5 and T9 of the Hinckley and Bosworth Local Plan and Environment Policy 3A of the Leicestershire, Leicester and Rutland Structure Plan. Planning permission is granted subject to conditions.

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. Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed buildings 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. No development shall commence until a scheme for the provision of surface and foul water drainage works, which shall be on separate systems, has been submitted to and approved in writing by the Local Planning Authority. No building on the site shall be occupied until the scheme has been completed in accordance with the approved scheme.

4. No development shall commence until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. No building on the site shall be occupied until the scheme has been completed in accordance with the approved scheme.

5. There shall be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank or watercourse and/or 3 metres of any side of an existing culverted watercourse, inside or along the boundary of the site, unless agreed otherwise by the Local Planning Authority.

Continued ...

6. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

7. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

8. There shall be no discharge of foul or contaminated drainage from the site into either ground water or any surface waters, whether direct or via soakaways.

9. 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.

10. No part of the development shall be occupied until details of a Green Commuter Plan containing a travel to work, car use and car parking management strategy for the site as a whole has been submitted to and agreed in writing by the Local Planning Authority. The plan shall comprise proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. Details of the proposals shall include measures to secure increases in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site. The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.

11. Before the development hereby permitted is first used, cycle parking provision shall be made to the satisfaction of the Local Planning Authority and once provided shall be maintained and kept available for use in perpetuity.

12. None of the industrial units on the site shall be occupied until the proposed junction improvements shown on drawing No 12088/03C, attached to planning permission 99/00048/OUT, have been substantially completed.

13. No more than 2500 square metres of floorspace shall be occupied until the improvements shown on TPK Drawing No 12088/14 Revision B, attached to planning permission 99/00048/OUR, or such other similar schemes have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency and have thereafter been substantially completed.

14. For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.

15. The car showrooms and vehicle repair workshops sited within 150 metres of Coventry Road shall operate only between the following hours:

Car showrooms:	7.30 am to 8.00 pm Monday to Friday 8.00 am to 6.00 pm Saturday 10.00 am to 4.00 pm Sundays and Bank Holidays
Vehicle repair workshops:	8.00 am to 7.00 pm Monday to Friday 8.00 am to 4.00 pm Saturday At no time on Sundays and Bank Holidays.

There shall be no working or deliveries taken outside of these hours.

Continued ...

AC

16. No machinery for the wholesale of painting of vehicles, including dedicated paint booths and/or ovens, shall be operated from the car showroom premises and curtilages.

17. Noise from fixed services plant associated with each car dealership shall not exceed 10dB below the lowest measured background noise levels on the site (LA90 46 dB(A) for daytime periods and LA90 34 db(A) for night time periods). Limiting noise levels for fixed services plant for either daytime or night-time periods are as follows:

OBCF - Octave Band Centre Frequency

OBCF (Hz)	125	250	500	1000	2000	4000	dB(A)
Limiting night-time noise levels @ 1m from any residence							
	23	19	22	19	9	1	24
Limiting day time noise levels @ 1m from any residence							
	34	31	32	33	24	13	36

The combined noise levels from activities (excluding vehicular movements and fixed services plant) associated with the general operations of each car dealership shall not exceed LAeq, 1hour 58.8 dB(A) at the nearest residential dwelling.

18. Before development commences, details of the proposed access junction onto Coventry Road shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include junction geometry, signal timings and trackings for HGVs and once approved the junction and traffic signals shall be provided and made fully operational before the first occupation of any unit hereby permitted.

19. Notwithstanding the submitted plans, before development commences further details of parking and manoeuvring facilities within the curtilage of units D and E shall be submitted to and approved in writing by the Local Planning Authority. Each approved parking and manoeuvring facility shall be provided prior to the first occupation of their respective units and once provided shall thereafter be maintained in perpetuity.

20. The gradient of the access drive shall not exceed 1:12 for the first 15 metres behind the highway boundary.

21. Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained.

22. Before first use of the development hereby permitted turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.

23. For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

24. Before the development hereby approved is first used, off-street car parking / lorry parking provision and turning facilities shall be made within the application site in accordance with the approved plan. The parking area shall be surfaced and marked out prior to the development being brought into use and shall be so maintained at all times.

25. Before first occupation of any unit, its access drive and any turning space shall be surfaced with tarmacadum, concrete or similar hard bound material for a distance of at least 15 metres behind the Highway boundary and shall be so maintained at all times.

26. Before development commences full details of energy saving measures for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details.

27. Before development commences full details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details.

Continued ...

28. Access shall be afforded at all reasonable times to any ecologist nominated by the Local Planning Authority which shall allow him/her to keep a watching brief throughout the period that development is taking place.

29. Notwithstanding the details submitted, prior to commencement of development further details incorporating revisions to the landscaping scheme and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

30. This permission relates to the application as revised by amended plans 6605/032 Rev B; 6605/049 Rev B; and 6605/053 Rev A received by the Local Planning Authority on 11 October 2008; 6605/048 Rev E received by the Local Planning Authority on 5 November 2008; 6605/051 Rev B and 6605/052 Rev B received by the Local Planning Authority on 9 November 2008; 6605/050 Rev F received by the Local Planning Authority on 14 November 2008; and M07.106.01 Rev C; M06.007.06 Rev B; 060629/C/100 Rev L; 060629/C/500 Rev M; 060629/C/602 Rev F; and 060629/C/608 Rev G received by the Local Planning Authority on 21 November 2008.

31. A one metre strip of unmown grass shall be provided within the application site along the Harrow Brook in accordance with the submitted Nature Conservation Statement.

32. Notwithstanding the details submitted, prior to the commencement of development full details of the hedgerow along the eastern boundary of the site adjacent to the canal towpath shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall reduce the length of lost hedgerow to a maximum of 25 metres and shall retain the hedge at its current height.

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

3. To ensure satisfactory provisions are made for the drainage of the site to accord with BE1 of the adopted Hinckley and Bosworth Local Plan.

4. To ensure satisfactory provisions are made for the drainage of the site to accord with BE1 of the adopted Hinckley and Bosworth Local Plan.

5. To maintain access to the watercourse for maintenance or improvement and provide for overland flood flows to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

6. To avoid water pollution to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

7. To avoid water pollution to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

8. To avoid water pollution to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

9. To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

10. To ensure adequate steps are taken to provide a transport choice / a choice in mode of travel to and from the site in accordance with Planning Policy Guidance Note 13.

11. To ensure adequate provision is made on the site for methods of transport other than the car in accordance with Planning Policy Guidance Note 13.

12. In the interests of road safety to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

13. In the interests of road safety to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

14. In the interests of road safety to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

Continued ...

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15. To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

16. To ensure that the use remains compatible with the surrounding area to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

17. To ensure that the use remains compatible with the surrounding area to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

18. In the interests of road safety to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

19. To ensure that adequate off-street parking facilities are available to accord with policy BE1 and T5 of the adopted Hinckley & Bosworth Local Plan.

20. To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of highway safety to accord with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

21. To reduce the possibility of surface water from the site being deposited in the Highway causing dangers to road users to accord with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

22. To ensure that vehicles may enter and leave the site in a forward direction in the interests of road safety to accord with policy BE1 and T5 of the Hinckley and Bosworth Local Plan.

23. To ensure that adequate off-street parking facilities are available to accord with policy BE1 and T5 of the adopted Hinckley & Bosworth Local Plan.

24. To ensure that adequate off-street parking facilities are available to accord with policy BE1 and T5 of the adopted Hinckley & Bosworth Local Plan.

25. To reduce the possibility of deleterious material being deposited in the highway in the interests of highway safety to accord with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

26. To ensure the development is sustainable and to reduce the impact of the development on the environment to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

27. To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

28. To allow the opportunity to ensure adequate protection for protect species to accord with Environment Policy 3A of the adopted Leicestershire, Leicester and Rutland Structure Plan.

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

30. To define the permission.

31. To ensure the water vole habitat is protected in accordance with the Wildlife and Countryside Act.

32. In the interests of visual amenity and to safeguard the character of the Ashby Canal Conservation Area to accord with Policies BE1 and BE7 of the 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.

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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. Surface water from the car showroom sites should be passed through a suitable type of oil/grit separator, the design of which shall be to the satisfaction of the Environment Agency.

4. For the avoidance of doubt, the provisions of Condition 16 do not affect, or impede the undertaking of "smart repairs" (paint touch-up to vehicles using aerosol (or similar) spray cans or hand held paint brushes) as often employed in respect of small scratches to, for example, wing mirrors, bumpers, door edges etc.

5. The Green Travel Plan required comprise proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. Details of the proposals should include measures to secure increased in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site. The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the approved details.

6. 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 (Tel: 01530 262380).

7. C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Area Manager. You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site Highway works before development commences.

8. If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development.

9. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

10. It is noted that the Highway is currently retained by a structure within the site, which may be affected by these proposals. All highway related structures, must be designed and constructed in accordance with the current relevant Highways Agency standards, codes of practice and technical memoranda. The design will be subject to the technical-approval procedure set out in the Department of Transport Standard BD 2/02 "Technical Approval of Highway Structures on Motorways and Trunk Roads". You must employ a chartered civil or structural engineer with experience in highway structures and approved by the County Council to carry out the design and oversee construction. You should start this approval process at an early stage to avoid delays in completing the Section 38 road adoption agreement, which may delay site works.

11. Highway related structures will normally include bridges, retaining walls, reinforced soil and anchored earth structures, environmental barriers (including noise barriers and fencing) and all drains, piped and box culverts, sewers and drainage structures, other than bridges, that have a diameter or clear span of more than 900mm. There should be discussion at an early stage to agree which structures we are to adopt. You will have to pay the additional design checking and inspection fees for any highway structure. You must also pay a commuted sum for future maintenance of any highway structure to be adopted.

12. The drainage scheme submitted should incorporate sustainable drainage principles.

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13. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and taken overflow pipe outlets should be detailed to discharge downwards into the bund.

14. Please note attached the comments from Leicestershire County Council Ecology officer dated 22 October 2007.

15. In relation to the requirements of condition 29 please see the attached memorandum from the Local Authority's Green Spaces Team dated 13 November 2007.

16. Hedges and trees owned by British Waterways must not be affected without prior approval. The developer should contact Mike Youe 01827 252 000 head of environment and heritage to agree specific proposals for vegetation removal.

17. Access routes for the works should be chosen to minimise their potential environmental impact. If access requires the use of the waterway or towpath, this must be agreed with British Waterways in advance. A written estates agreement will be necessary.

18. Hedgerow removal requires forward planning as notification generally takes 6 weeks to approve. It is against the law to deliberately or recklessly remove most countryside hedgerows including canal hedgerows without permission.

19. All storage of building materials and equipment during the works should be in designated areas to minimise the impact of the development on the waterway corridor and to reduce the risk of pollution of the water and towpath.

20. During demolition and construction phases, care should be taken to ensure that materials do not enter the waterway or endanger waterway users. It may be necessary to close the waterway or towpath during phases of the development. The times of year that waterways can be closed to navigation are restricted and this should be discussed well in advance with British Waterways.

21. The applicant/developer is advised to maintain contact with Des Harris third party works engineer 01827 252 038 in order to ensure that any necessary consents are obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".

22. For the purposes of Condition 17 the applicant should be aware that night time periods are between 7pm and 7 am; and day time periods are between 7 am and 7 pm.

23. The details required by Condition 10 should include provision for cyclists within the site.

Date:- 12 December 2007

PETER CASH
PROPER OFFICER OF THE COUNCIL

Design and Access Statement

Removal of Planning Condition on Permission 07/01150/FUL
Land adjacent to 391 Coventry Road
Hinckley
Leicestershire

Application 09/00343/CONDIT

Land adjacent to 391 Coventry Road

HBJ Gateley Wareing
One Eleven
Edmund Street
Birmingham B3 2HJ

DESIGN AND ACCESS STATEMENT

Design

As the application is to remove condition 13 of planning permission 07/01150/FUL requiring improvements to the highway before the occupation of more than 2500 square metres of floorspace at the at the development is occupied design issues are not relevant.

Access

Access to the site is from the signalised junction on Coventry Road constructed in accordance with the conditions to planning permission 07/01150/FUL.

It is anticipated that the majority of vehicles visiting the site will travel along the A5 and turn onto the Coventry Road at the roundabout to which condition 13 relates.

As will be noted from the highways reports produced by PFA Consulting, the design of the existing roundabout is such that it met the requirement for access to the development as at the date of grant the planning permission.

In fact, the access from the A5 to the Coventry Road is sufficient in order to accommodate the traffic expected to be generated by the development had the application been submitted as at today's date.

The condition is therefore not necessary in planning terms or relevant to the development. Neither is it reasonable to place the burden of the works required by the condition upon the single development permitted by planning permission 07/01150/FUL.

In respect of access within the site, this is not a consideration in respect of condition 13.