Item: **06**

Reference: **11/00581/EXT**

Applicant: **Lighthouse Properties Ltd**

Location: **Beavers Bar London Road Hinckley**

Proposal: **EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 08/00442/FUL FOR THE ERECTION OF 10 APARTMENTS**

Target Date: **7 November 2011**

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a Major Application.

Application Proposal

This is an application for an extension of time for extant planning permission (ref: 08/00442/FUL) for the demolition of a commercial premises, known as Beavers Bar, and the erection of 10 x 2 bed apartments at London Road Hinckley. The previous application was a full submission and expired on the 15 August 2011. The extension of time application has been made prior to the expiry date.

The Site and Surrounding Area

The site area is approximately 690 sq. metres and is located within the urban area of Hinckley in close proximity to the town centre. The surrounding area comprises a mix of uses including residential, community and retail. The site was previously occupied by Beavers Bar, a building used for A3 use. The original buildings on site were demolished prior to the determination of the previous application.

The character of the area is a mix of single, two and three storey properties either detached or forming a terrace. The town centre and associated facilities are within walking distance.

Technical Document submitted with application

The following documents were submitted with the previous application:-

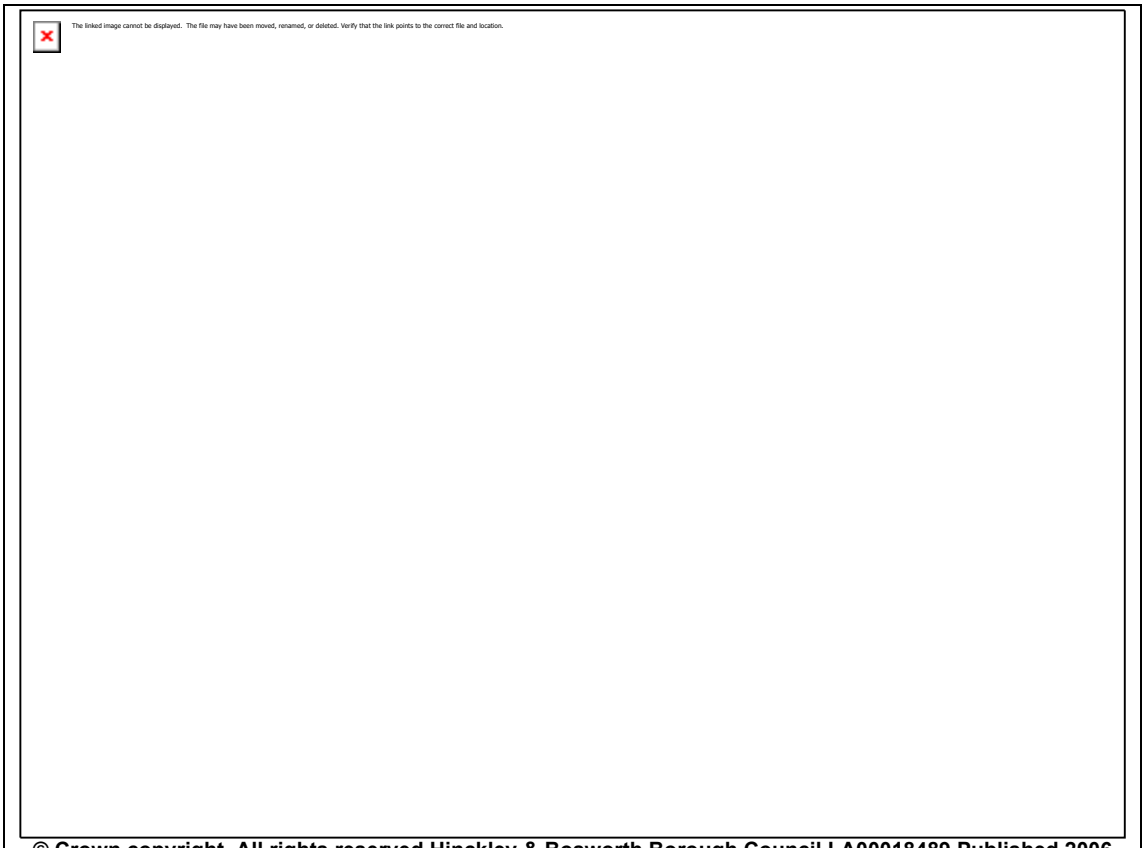
A design and access statement, heads of terms, street scene plans and a tree assessment.

An amended heads of terms has been submitted with this application.

History:-

08/00442/FUL	Erection of 10.No apartments	Approved	15.08. 08
07/00893/FUL	Demolition of existing bar and erection of 10 apartments	Withdrawn	20.09.07

05/01108/OUT	Demolition of existing bar and erection of 12 apartments (revised scheme)	Approved	16.01.06
05/00700/OUT	Demolition of existing bar and erection of 12 apartments	Withdrawn	06.09.05
01/01096/ADV	Retention of illuminated sign consent	Approved	24.04.03
00/01168/FUL	Elevation alterations and extension to roof	Approved	28.02.01



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Consultations:-

No objection has been received from:-

Environment Agency
Director of Environment and Transport (Highways).

No objection subject to conditions have been received from:-

Severn Trent Water Limited
Head of Community Services (Land Drainage).

As a result of the Developer Contributions consultation, Leicestershire County Council has the following comments:-

a) Directorate of Chief Executive (Ecology) has no requests

b) Director of Children and young Peoples Services (Education) requests a contribution of £18 355.16 for Upper School Provision

c) Director of Environment and Transport (Civic Amenity) has requested a contribution of £462

d) Director of Adults and Communities (Libraries) have requested a contribution of £540.

Two letters of representation have been received, these raise the following issues:-

a) highway concerns in that there will be additional traffic that the unmade road will not be able to cope with and that there is inadequate off road parking within the vicinity of the site
b) concerns that the design proposed and property type is not in keeping with that of surrounding properties and buildings
c) concerns that the development will result in light pollution.

At the time of writing the report, no comments have been received from:-

The Borough Council's Tree Officer
Primary Care Trust (in respect of developer contributions)
Leicestershire Constabulary Crime Reduction Officer (in respect of developer contributions).

Policy:-

National Policy Guidance

Planning Policy Statement 1 - Delivering Sustainable Development sets out the Government's objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

Planning Policy Statement 3 - Housing, encourages the use of previously developed land within urban areas in preference to the development of greenfield sites for housing. The Policy states that good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities.

Paragraphs 40 to 41 states that at least 60 per cent of new housing should be provided on previously developed land and that a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.

Paragraph 71 states that where the LPA cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 and considerations in paragraph 69. Paragraph 69 requires the LPA to ensure that the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in,

and the spatial vision for, the area and does not undermine wider policy objectives. In addition, development should provide high quality housing of a good mix and make effective and efficient use of land.

Planning Policy Guidance Note 13 - Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices'.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

Regional Policy Guidance

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal: -

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

Policy 43 seeks to improve highway safety across the region and reduce congestion.

Local Development Framework Core Strategy 2009

Policy 1 Development in Hinckley outlines the development intentions for Hinckley, which includes the allocation of land for the development of a minimum of 1120 new residential dwellings and address the existing deficiencies in the quality, quantity and accessibility of green space and play provision in Hinckley as detailed in the Council's most up to date strategy and the play strategy, particularly in the south

west and north east of Hinckley. New green space and play provision will be provided where necessary to meet to meet the standards set out in Policy 19.

Policy 5 Transport Infrastructure in the Sub-regional Centre sets out transport interventions to support additional development in and around the sub-regional centre, to promote sustainable development. The interventions include improvements to the provision and management of car parking and public transport to support the increased use of Hinckley Town Centre.

Policy 16 seeks residential development to provide a mix of housing types and tenures at a minimum density of 40 dwellings per hectare within and adjoining Hinckley, Burbage, Barwell and Earl Shilton.

Paragraph 4.2 sets out a target of 40% of development on previously developed land.

Policy 19 sets out standards for the provision of green space and play provision and identifies where improvements are needed to existing green spaces and play areas and where new spaces are required to support existing and new residents and workers in the borough.

Policy 24 requires all development within Hinckley, Burbage, Barwell and Earl Shilton to meet code level 3 of the Code for Sustainable Homes unless it would make the development unviable.

Hinckley Town Centre Area Action Plan 2011

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21st March 2011, as such, it currently forms a formal development plan document for Hinckley Town Centre as part of the Local Development Framework.

The application site is within the Town Centre boundary as identified within the Hinckley Town Centre Area Action Plan (AAP). It is not identified as a key site.

The boundary within the Hinckley Town Centre Area Action Plan (AAP) also reflects that of the Local Plan, and as such the sites fall outside of the town centre and settlement boundary of Hinckley on both accounts.

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date". The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

Hinckley and Bosworth Local Plan 2001

The site lies within the settlement boundary for Burbage as identified in the adopted Hinckley and Bosworth Local Plan.

Policy BE1: Design and Siting of Development states that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area; ensure adequate highway visibility and parking standards; do not adversely affect the amenities of neighbouring properties; incorporate landscaping to a high standard; and would not be prejudicial to the comprehensive development of a larger area of land of which the development forms part.

Policy T5: Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development.

Policy RES5 assesses proposals for residential development on unallocated sites. Planning permission will only be granted if the site lies within the boundaries of an urban area or rural settlement and the siting, design and layout of the proposal do not conflict with relevant plan policies.

Policy REC2 requires all new residential development to provide outdoor play space for formal recreation, or for a contribution to be sought in lieu.

Policy REC3 New Residential Development - Outdoor Play Space for Children, requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Policy T9: Facilities for cyclists and pedestrians encourages walking and cycling including facilities for cycle parking.

Policy NE2: Pollution states that planning permission will not be granted for development which would be likely to cause material harm through pollution of the air or soil or suffer material harm from either existing or potential sources of air and soil pollution.

Policy IMP1 requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance (SPG): ‘New Residential Development’ provides a series of standards that new residential development should achieve in respect of density, design, layout, space between buildings and highways and parking. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

The Council’s Supplementary Planning Document (SPD): ‘Play and Open Space’ provides a framework for the provision of play and open space and financial contributions to support the requirements of Policy REC3.

The Council’s Supplementary Planning Document (SPD): ‘Sustainable Design’ aims to support and encourage developers and applicants in delivering homes in line with national best practice guidance primarily the Code for Sustainable Homes for housing and delivery of sustainable development through the planning system.

Appraisal:-

The main consideration with regards to this application are 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 are 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.

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.

As this site does not comprise of garden land and is instead a derelict brownfield site, the above changes in respect of the reclassification of garden land as Greenfield land do not apply.

Density

The application site measures 690 square metres, which with 10 apartments gives a density of around 147 dwellings per hectare. This said, the density proposed is similar to other approved apartment schemes in the town centre and is a lower density than the previously approved outline scheme on the site. Accordingly the proposed development will not appear uncharacteristic within its surrounds. Further, given the sustainable location of the site close to services and amenities the density is considered acceptable.

Based on the above it is considered that the character of the area would not be compromised and it is considered that the scheme would be in general conformity with PPS3. 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 1. This is an overarching policy to guide development in Hinckley where there is support to deliver a minimum of 1120 new residential dwellings within the settlement boundary of Hinckley. As such, this proposal is considered in accordance with Policy 1.

Policy 24 requires all new dwellings in Hinckley 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 15 August 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.

Hinckley Town Centre Area Action Plan

The application site is not situated within the Area Action Plan boundary; however the roads adjacent to the site will be subject to a 20mph zone as suggested by the Action Plan. This will have no direct impacts on the acceptability of the scheme. There are no other proposals within the plan which will have any direct impacts on the development proposed.

Changes to Conditions

Given that the development plan and other material considerations have not changed in a manner that would now lead to the application being refused, the other consideration is whether 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.

Drainage

The Head of Community Services (Drainage) has requested a condition requiring the submission of drainage details. 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.

Financial Contributions

Since the determination of the previous application the Community Infrastructure Levy Regulations (CIL) 2010 have been brought out. This requires the Borough Council to ensure that requested contributions are necessary, directly related and fairly and reasonably related in scale and kind the development proposed.

Play and Open Space Contributions

The site is located within 400 metres of open space Queens Park (Neighbourhood Park). The proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Council's SPD on Play and Open Space.

The request for any developer must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL).

Within the Green Space Strategy 2005-2010, Hinckley was found to have a deficiency of both equipped open space (-1.20) and outdoor sports (-12.50) for its population when compared with the National Playing Fields Standard.

The quality of the space has been considered within the Quality and Accessibility Audit of 2007 which awarded Queens Park a quality score of 32.4%. The Play and Open Space SPD sets out how the contribution is calculated in proportion to the size and scale of the development. As the scheme results in a net gain of 10 dwellings a total figure of £12,508 is sought; £8,178 for provision and £4,330 for maintenance.

It is considered that Hinckley has a deficit of both equipped and outdoor sports areas. The size of units proposed would appeal to families and given the proximity of the application site to these open spaces it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance.

A revised S106 Agreement is under negotiation to secure the play and open space contributions.

Director of Children and young Peoples Services (Education) requests a contribution of £18 355.16 for Upper School Provision, Director of Environment and Transport (Civic Amenity) has requested a contribution of £462, Director of Adults and Communities (Libraries) have requested a contribution of £540.

The above contribution requests have been consideration in respect of their CIL compliance:-

Libraries contribution

It has not been demonstrated whether the library likely to be used by the development has sufficient capacity for the 10 additional users generated, therefore the contribution cannot be shown to be necessary. No information has been provided indicating how exactly the contribution would be used. In addition, the justification

fails to show any consideration of what (if any) problems the library currently has. In sum, it can not be illustrated that the contribution is necessary to the development.

Civic Amenity

A contribution has been requested on the basis it is required to mitigate the effects of the additional 3 tonnes waste per year arising from the development. The site currently accepts nearly 9000 tonnes of waste per year. The increase is considered insignificant when looked at in proportion to the total amount of waste received each year. No evidence has been provided to suggest that there is no capacity for this increase. It is therefore considered that it is difficult to conclude that the contribution is to make the development acceptable in planning terms.

Education

There is an existing deficit at the school the contribution is sought for of 86 pupils. This development is predicted to add to the deficit with a total of one pupil. As the existing deficiency is so great, it is not considered that the contribution is shown to be necessary. It cannot also be said to be directly related to the development as the issue is so significant and pre-existing.

Accordingly, the above contributions are not considered CIL compliant and will not be requested.

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

Other Considerations

Concerns have been raised that the design proposed and property type is not in keeping with that of surrounding properties and buildings. In respect of this the area comprise a mix of property styles and design and although surrounding properties are predominantly 2 storey, two and half storey is not considered to be detrimental to the street scene and is in line with a previous scheme granted outline planning permission (05/01108/OUT).

It has been suggested that due to the height of the proposal it will result in light pollution. In respect of this, no external high level lighting has been proposed on the development, and the type of development proposed is not one which would normally be considered to result in light pollution. Although, additional light will be generated by the development, from the internal lighting of rooms, this is not considered to be of a scale to result in light pollution which would warrant refusal of the application.

It has been stated that to access the proposed development, private land will have to be crossed. No evidence has been provided to prove this is the case, and thus the application has been appraised against the documents submitted. If there is a dispute in respect of land ownership, this is a private issue which needs to be resolved between the parties involved. Land ownership is not a material planning consideration.

It has also been suggested that the private road which provides access to the surrounding properties is in a poor state of repair. Upgrading of this private road is not a consideration of the application. Highway improvements which are considered necessary for the development and which are directly related to it have been requested by way of condition.

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 and subject to the signing of an Agreement under Section 106 of the Town and Country Planning Act 1990.

Recommendation:-

That subject to a Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide the financial contributions towards the provision and maintenance of play and open space the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant planning permission subject to the conditions below. Failure to complete the said agreement by 7 November 2011 may result in the application being refused.

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

Having regard to the pattern of existing development in the area, consultation responses, 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 and the Unilateral Undertaking, the proposed development would be in accordance with the development plan, would not materially harm the character or appearance of the area or the living conditions of neighbouring occupiers and would be acceptable in terms of highway safety.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies1, 5, 16, 19, 24.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, T5, RES5, REC3, T9, NE2, IMP1.

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 building 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 Notwithstanding the submitted details and before any development hereby permitted is commenced on site a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the treatment of all ground surfaces together with plant species, size and numbers and their disposition throughout the site and implementation programme. The development shall then be carried out in accordance with the approved details.

4 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.

5 No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted and approved in writing by the planning authority.

6 The car parking and turning facilities shown within the curtilage of the site shall be provided before the development is brought into use and shall thereafter permanently remain available for use thereafter.

7 Notwithstanding the details submitted, prior to the commencement of development, a scheme of improvements including construction details and detailed design drawings of the Gladstone Terrace junction and the access to the site shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

8 Notwithstanding the submitted details and prior to development commencing on site, details (including fixings and glazing) of the ground floor windows fronting London Road and windows facing Gladstone Terrace shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with those details.

9 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment, carried out by a qualified code assessor, demonstrating that the development 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 any dwelling constructed as part of the development hereby approved, a final certificate demonstrating that the entirety of the development has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.

10 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 02B, 03B Received by the Local Planning Authority on the 28 April 2008.

Reasons:-

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&4 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

5 To ensure satisfactory archaeological investigation and recording to accord with policy BE13 of the Hinckley and Bosworth Local Plan.

6 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the Hinckley and Bosworth Local Plan.

7 To enable vehicles to enter and leave the highway in slow and controlled manner and in the interests of general highway safety and to afford easy access to the site and protect and free and safe passage of traffic in the public highway to accord with policy T5 of the Hinckley and Bosworth Local Plan.

8 In the interests of the safety of users of the highway immediately adjacent to the front wall of the building and in the interests of residential amenity to accord with policy T5 and BE1 of the Hinckley and Bosworth Local Plan.

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

10 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).

Contact Officer:- Eleanor Shaw Ext 5680