HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Hinckley & Bosworth Borough Council

APPEAL BY AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF ONE DWELLING WITH DETACHED GARAGE AND FORMATION OF AN ACCESS AT LAND TO THE REAR OF 8 SUTTON LANE, MARKET BSOWORTH

HBBC REFERENCE: 11/00228/FUL

THE PLANNING INSPECTORATE REFERENCE: APP/K2420/A/11/2158112

Contents Page

Section 1: Introduction

Section 2: Site Description and Proposal

Section 3: Site History

Section 4: Government Guidance

Section 5: Regional Planning Guidance

Section 6: The Development Plan Policies

Section 7: The Case for the Local Planning Authority

Section 8: Comments on the Appellant's Grounds of Appeal

Section 9: Conclusions and Conditions

Appendices

Appendix A: Site Photographs

Appendix B: Open space contribution work sheet

Appendix C: Comments from Leicestershire County Council Highways

Section 1: Introduction

1.1 This statement is to be read in conjunction with the previously submitted Appeal Questionnaire, in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission 11/00228/FUL for the erection of a dwelling, detached garage and formation of access at Land to the rear of 8 Sutton Lane, Market Bosworth.

Section 2: Site Description and Proposal

2.1 The site is a vacant piece of overgrown garden land situated to the south of Market Bosworth Market Place, within the conservation area. The ground level is approximately 1 m higher then the highway to the north west known as Shenton Lane. There are a number of existing trees on the site, most of which are situated along the boundaries, there is one horse chestnut sited centrally within the site. There is a 1.8 m hedge to the highway boundary, a 1.8 m close boarded fence to the eastern and northern boundaries and a 1.5 m fence to the southern boundary. There is an existing gated pedestrian access to the site from Shenton Lane to the western boundary.

2.2 To the north of the site is a large detached bungalow constructed from red brick and dark tile and immediately to the south is a large detached two storey dwelling which is part brick and render and has been extended with a two-storey side extension in recent years.

2.3 The proposed dwelling has the appearance of a two-storey detached property but the plans include the formation of basement accommodation for use as a family room, gym and cinema room. The garage is proposed to the side of the dwelling and consists of a double bay garage measuring 6 m x 6 m with a ridge height of 5.8 m. The proposed materials of construction for the garage are brick pillars, pantile roof, timber boarding and timber doors.

2.4 The dwelling proposed comprises a 7.1 m high pitched roof with a pitched roof timber framed canopy to the front door. Two dormer windows are proposed within the front roof slope together with a small roof light. To the rear roof slope is another small roof light and dormer window together with a pitched roof gable that projects 3.5 m from the property. A dormer window is also proposed in the roof slope of the projecting roof gable which will face a northerly direction. The materials of construction for the proposed dwelling are brick work to the ground floor, oak frames and render to the upper floor, timber boarding to the utility projection and a pantile roof. An enclosed garden is proposed to the rear.

2.5 This application sought planning permission for the erection of a dwelling, a detached garage and formation of an access.

2.6 The main issue in this appeal is the formation of a new vehicular access onto Shenton Lane.

Section 3: Site History

3.1 Planning permission was refused for the erection of one dwelling on 23 November 2005 (05/01013/OUT) on the grounds of poor highway visibility, insufficient details demonstrating how the development would assimilate into the street scene and that the design of the proposed dwelling was out of keeping with the character and appearance of the conservation area.

Section 4: Government Guidance

4.1 Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

4.2 Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives.

Paragraph 12 states that good design is fundamental to the development of high quality new housing.

Paragraph 13 reflecting policy in PPS1, states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted. Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and compliments the neighbouring buildings and the local area more generally in terms of scale, density, layout and access.

Paragraph 48 states that Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area. Paragraph 49 states that careful attention to design is particularly important where the chosen local strategy involves intensification of the existing urban fabric. More intensive development is not always appropriate.

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.

PPS3 was updated in June 2010 to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is no longer a national indicative minimum density in order to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

4.3 Planning Policy Statement 5 (PPS5): 'Planning for the Historic Environment' sets out the national planning policy framework on the conservation of the historic environment. Paragraph HE7.1 states that the Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal.

4.4 Planning Policy Guidance Note 13 (PPG13): 'Transport' sets out national transport planning policy. Paragraph 6 states that Local Planning Authorities should accommodate housing principally within urban areas and promotes accessibility to services by public transport, walking and cycling and reduces the need to travel. Paragraph 29 states that when thinking about new development the needs and safety of the community should be considered and addressed in accompanying Transport Assessments.

4.5 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.

Section 5: Regional Planning Guidance

5.1.1 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:-

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

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

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

Section 6: The Development Plan Policies

6.1 The Development Plan policies referred to for the purposes of the application were those provided; Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (adopted December 2009); Hinckley and Bosworth Local Plan (adopted February 2001) with all policies referred to within the Local Plan have been 'saved'; Hinckley and Bosworth Borough Council Supplementary Planning Document: Play and Open Space Guide (2008), New Residential Development SPG AND Market Bosworth Conservation Area Appraisal (2007).

6.2 Hinckley and Bosworth Local Development Framework (2009)

6.2.1 Policy 11: 'Key Rural Centres Stand Alone' requires new development to respect the character and appearance of the Market Bosworth Conservation Area by incorporating locally distinctive features of the conservation area into the development.

6.2.2 Policy 24: 'Sustainable Design and Technology' expects residential developments in Key Rural Centres to meet sustainability targets set out in Building a Greener Future.

6.3 Hinckley and Bosworth Local Plan 2001

6.3.1 Policy IMP1: 'Contributions towards the Provision of Infrastructure and Facilities' requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

6.3.2 Policy REC3: ' New Residential Development - Outdoor Play Space for Children' requires the appropriate level of children's play space to be provided within development sites. Alternatively, a financial contribution can be negotiated towards the provision and maintenance of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities within the area.

6.3.3 Policy BE7: 'Development in Conservation Areas' states that consent for proposals which would harm the special character of a conservation area will not be granted. It then states that the overall scale, design and proportions should be sympathetic to the characteristic form in the area and compatible with adjacent buildings and spaces.

6.3.4 Policy RES5: 'Residential Proposals on Unallocated Sites' states that on sites not specifically in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

6.3.5 Policy BE1: 'Design and Siting of Development' seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment.

Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

6.3.6 Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking targets for new developments. Leicestershire County Council's document 'Highways, Transportation and Development' provides further highway design guidance and parking targets.

6.3.7 Policy NE14: 'Protection of Surface Waters and Groundwater Quality' protects the water environment, potential sources of air and soil pollution.

6.4 Supplementary Planning Guidance/Documents

6.4.1 The Borough Council's Play and Open Space Guide Supplementary Planning Document (2008) provides further guidance to developers in respect of the different types of open space, and the level of financial contributions required for the provision and future maintenance of those open spaces.

6.4.2 The Market Bosworth Conservation Area Appraisal 2007 provides an appraisal of the historic character and appearance of the urban environment within the Market Bosworth Conservation Area. It specifically states that Shenton Lane is characterised by large 2 storey residential properties in large gardens set behind mature hedges or occasional low stone walls which emphasise the semi-rural qualities of the area. The Management Plan and Photographic Survey associated with this document specifically identifies the frontage of the appeal site as requiring the paving slabs to be removed and replaced with a more traditional building material.

6.4.3 Supplementary Planning Guidance: 'New Residential Development' provides a series of standards that new residential development should achieve in respect of design, layout, impact on neighbours and amenity space. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

6.4.4 Copies of the relevant policies and guidance with explanatory text were submitted previously with the Appeal Questionnaire.

Section 7: The Case for the Local Planning Authority

7.1.1 Reason for refusal 1- The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could result in dangers to road users. Accordingly the proposed development is considered contrary to policy T5 of the adopted Hinckley and Bosworth Local Plan 2001.

7.1.2 It is the opinion of the Local Planning Authority that the proposed development will displace existing on-street parking as a result of forming the proposed vehicular access onto Shenton Lane and parked vehicles will severely impair visibility when exiting the appeal site, to the detriment of highway safety.

7.1.3 Whilst it is noted that the appellant put forward measures for protecting the proposed vehicular access to the appeal site within their design and access statement submitted with the planning application it is contended that they failed to demonstrate that a safe vehicular access to the appeal site could be provided with appropriate visibility splays being displayed and taking into account the continued parking of vehicles within the highway on Shenton Lane.

7.1.4 Reason for refusal 2- In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on the play and open space facilities of the local area by the proposed development would not accord with Government Guidance Circular 5/05, Policies REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the Supplementary Planning Document on Play and Open Space 2008.

7.1.5 As the application was to be recommended for refusal and in order to avoid abortive work and costs in providing a satisfactory legal agreement, the contribution was not pursued at the time of the application. It is noted, however, that should the appeal be successful, that the appellant would be willing to contribute to the provision and maintenance of off-site public play and open space facilities within the vicinity of the site and this commitment is reflected in the draft legal agreement submitted with the appellants appeal statement.

Section 8: Comments on the Appellant's Grounds of Appeal

8.1 At paragraph 1.04 the appellant acknowledges that Leicestershire County Council Highway Department 'have always expressed concern over the impaired visibility from any proposed vehicular access' which has resulted in recurring objections.

8.2 In respect of the highway visibility and access issues raised in the appellants grounds of appeal the Local Planning Authority refers to the response provided by Leicestershire County Council Highways department attached as appendix B with this report.

Section 9: Conclusion and Conditions

9.1.1 In consideration of the contents of this statement and the information supplied with the appeal questionnaire, the local planning authority respectfully requests that the Inspector dismiss the appeal in accordance with reasons for refusal 1 and 2. However, if the Inspector is minded to allow the appeal and grant full planning permission for the proposed development the local planning authority request that consideration be given to the imposition of the conditions contained in the subsequent paragraphs of this statement.

9.1.2 Suggested Conditions

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

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

2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans: Site Location Plan received 25 March 2011, Drawings 03A, 04A, 05A and 08A received on 21 April 2011.

Reason: For the avoidance of doubt and in the interests of proper planning.

3) Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling and garage 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.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan

4) No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.

5) Before development commences, full details of the window and door style, reveal, cill, header treatment and materials of construction shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.

6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

(i) proposed finished levels or contours
(ii) means of enclosure and boundary treatments
(iii) hard surfacing materials
(iv) retained historic landscape features and proposals for restoration, where relevant.
(v) planting plans
(vi) written specifications
(vii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
(viii) implementation programme.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.

7) 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.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.

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 B, C, D and E and Part 2, Class C shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

Reason: To safeguard the character of the Market Bosworth Conservation Area in accordance with the requirements of Policy BE7 of the Adopted Hinckley and Bosworth Local Plan.

9) Before any development commences, representative samples of the types and colours of materials to be used on the surfacing of the access, roadways, turning and parking areas and pedestrian ways 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.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.

10) No development shall take place within the 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.

Reason: To ensure satisfactory archaeological investigation and recording in accordance with the requirements of Policy BE16 of the Adopted Hinckley and Bosworth Local Plan.

11) Before development commences, full details of the eaves and verge treatment, guttering and down pipe (including materials and method of fixing) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.

12) No development shall take place until a revised plan detailing arrangements for access, layout and parking have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved plans.

Reason: In the interests of highway safety in accordance with policy T5 of the adopted Hinckley and Bosworth Local Plan.

13) 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.

Reason: To ensure that adequate off street parking provision is made to reduce the possibilities of development of the site leading to on street parking problems in area during construction to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.

14) The garage, once provided, shall thereafter permanently remain available for car parking.

Reason: To ensure that adequate off street parking provision is made to reduce the possibilities of development of the site leading to on street parking problems in area during construction to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.

Appendix A: Site Photographs











Appendix B: Open Space Contribution Work Sheet

Hinckley & Bosworth Borough Council
Adopted Local Plan 2001

Hinckley & Bosworth Borough Council
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EXCELLENT COUNCIL RATED

Saved Policies REC2 & REC3
Play and Open Space Developer Contribution Calculation

Application: 11/00228/FUL

		Play and Open Space Facility:
Does formal space exist within 1km?	NO	
Does informal space exist within 400m?	YES	Parish Field, Market Bosworth

Total number of units (inc discounted units)	1
No. of 1 bed or other discount	0

Usable on-site provision (M^2) to be provided	Formal Open Space (Req: 40 Sq M)	0
	Children's Equipped Play Space (Req: 5 Sq M)	0
	Informal Children's Play Space (15 Sq M)	0

Maintenance	**Duration (years)**
Formal Open Space	10
Children's Equipped Play Space	10
Informal Play Space	10

Capital Calculation				
A	Formal Open Space	£0.00		
B	Children's Equipped Play Space	£725.40		
C	Informal Children's Play Space	£92.40		
Total Capital (Per dwelling)		£817.80	1	£817.80

Maintenance Contribution				
D	Formal Open Space	£0.00		
E	Children's Equipped Play Space	£353.50		
F	Informal Children's Play Space	£79.50		
Total Maintenance (Per dwelling)		£433.00	1	£433.00

Total Contribution	**£1,250.80**	1	£1,250.80

Summary of Requested Developer Contributions:

Appendix C: Comments from Leicestershire County Council Highways- See attached PDF.