

Public Document Pack



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 02 October 2017

To: Members of the Planning Committee

Mr R Ward (Chairman)	Mrs J Kirby
Mr BE Sutton (Vice-Chairman)	Mr C Ladkin
Mr PS Bessant	Mr RB Roberts
Mr CW Boothby	Mrs H Smith
Mrs MA Cook	Mrs MJ Surtees
Mrs GAW Cope	Miss DM Taylor
Mr WJ Crooks	Ms BM Witherford
Mrs L Hodgkins	Ms AV Wright
Mr E Hollick	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **PLANNING COMMITTEE** in the De Montfort Suite - Hub on **TUESDAY, 10 OCTOBER 2017 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

Fire Evacuation Procedures

Council Chamber (De Montfort Suite)

- On hearing the fire alarm, leave the building **at once** quickly and calmly by the nearest escape route (indicated by green signs).
- *There are two escape routes from the Council Chamber – at the side and rear. Leave via the door closest to you.*
- Proceed to **Willowbank Road car park**, accessed from Rugby Road then Willowbank Road.
- **Do not** use the lifts.
- **Do not** stop to collect belongings.

Abusive or aggressive behaviour

We are aware that planning applications may be controversial and emotive for those affected by the decisions made by the committee. All persons present are reminded that the council will not tolerate abusive or aggressive behaviour towards staff, councillors or other visitors and anyone behaving inappropriately will be required to leave the meeting and the building.

Recording of meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, the press and public are permitted to film and report the proceedings of public meetings. If you wish to film the meeting or any part of it, please contact Democratic Services on 01455 255879 or email rebecca.owen@hinckley-bosworth.gov.uk to make arrangements so we can ensure you are seated in a suitable position.

Members of the public, members of the press and councillors are hereby informed that, in attending the meeting, you may be captured on film. If you have a particular problem with this, please contact us using the above contact details so we can discuss how we may accommodate you at the meeting.

PLANNING COMMITTEE - 10 OCTOBER 2017

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
2. MINUTES (Pages 1 - 2)
To confirm the minutes of the meeting held on 12 September 2017.
3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES
To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.
4. DECLARATIONS OF INTEREST
To receive verbally from Members any disclosures which they are required to make in accordance with the Council's Code of Conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**
5. QUESTIONS
To hear any questions in accordance with Council Procedure Rule 12.
6. DECISIONS DELEGATED AT PREVIOUS MEETING
The Deputy Chief Executive (Community Direction) to report progress on any decisions delegated at the previous meeting.
7. 17/00848/OUT - OAKVIEW, PECKLETON LANE, DESFORD (Pages 3 - 8)
Application for residential development for two detached dwellings (Outline – access only).
8. 15/00441/FUL - LAND SOUTH OF CHAPEL FIELDS LIVERY STABLES, CHAPEL LANE, WITHERLEY (Pages 9 - 22)
Application for erection of 10 dwellings and associated access.
9. 17/00634/FUL - DUNLOP LIMITED, STATION ROAD, BAGWORTH (Pages 23 - 42)
Application for demolition of existing industrial unit and erection of 61 dwellings.
10. 17/00606/CONDIT - THE OLD RECTORY NURSERY, 93 SHILTON ROAD, BARWELL (Pages 43 - 50)
Application for variation of condition 3 of planning permission 15/00611/COU to increase the number of children permitted from 42 to 64.
11. 17/00776/FUL - 7 HUNTERS WALK, WITHERLEY, ATHERSTONE (Pages 51 - 58)
Application for erection of timber post and wire fence adjacent to Kennel Lane (resubmission of 17/00310/FUL).
12. 17/00690/HOU - 6 AZALEA CLOSE, BURBAGE (Pages 59 - 64)
Application for erection of fence (retrospective).
13. 17/00734/OUT - LAND ADJACENT TO DALEBROOK FARM, LEICESTER ROAD, EARL SHILTON (Pages 65 - 78)
Application for residential development up to 49 dwellings (Outline – all matters reserved).

14. PLANNING ENFORCEMENT UPDATE (Pages 79 - 86)

To provide an update to Members on the number of active and closed planning enforcement cases within the borough.

15. APPEALS PROGRESS (Pages 87 - 90)

Update on appeals since the last meeting.

16. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

12 SEPTEMBER 2017 AT 6.30 PM

PRESENT: Mr R Ward - Chairman
Mr BE Sutton – Vice-Chairman
Mr CW Boothby, Mrs MA Cook, Mrs GAW Cope, Mr WJ Crooks, Mrs L Hodgkins,
Mr E Hollick, Mrs J Kirby, Mr C Ladkin, Mr RB Roberts, Mrs H Smith, Mrs MJ Surtees,
Miss DM Taylor and Ms BM Witherford

Officers in attendance: Helen Knott, Rebecca Owen, Michael Rice and Nicola Smith

135 MINUTES

It was moved by Councillor Sutton, seconded by Councillor Hodgkins and

RESOLVED – the minutes of the meeting held on 15 August 2017 be confirmed and signed by the chairman.

136 DECLARATIONS OF INTEREST

No interests were declared at this stage.

137 DECISIONS DELEGATED AT PREVIOUS MEETING

It was reported that the decision on application 17/00521/HOU had been issued but the other three decisions made at the previous meeting were subject to legal agreements which were being drafted.

138 17/00574/FUL - 1 BEACON VIEW, BAGWORTH, COALVILLE

Application for erection of a 2.5 storey dwelling and associated garage.

It was moved by Councillor Sutton, seconded by Councillor Surtees and

RESOLVED – permission be granted subject to the conditions contained in the officer's report, with power to determine the final detail of conditions delegated to the Head of Planning and Development.

Councillor Taylor entered the meeting at 6.42pm.

139 17/00353/FUL - 115 HIGH STREET, EARL SHILTON

Application for change of use of first floor to three apartments and ground floor to mixed retail and café use.

It was moved by Councillor Crooks, seconded by Councillor Ladkin and

RESOLVED – permission be granted subject to the conditions outlined in the officer's report and late items with powers to determine the final detail of the conditions delegated to the Head of Planning and Development.

140 17/00751/FUL - THE HUTCH, BROAD LANE, STANTON UNDER BARDON

It was noted that this application had been withdrawn.

141 APPEALS PROGRESS

Members received a report which provided an update on several appeals since the previous meeting. It was

RESOLVED – the report be noted.

142 MAJOR PROJECTS UPDATE

The committee received an update on major projects in the borough. The following points were raised:

- The legal agreement for Barwell SUE was in the final stages
- The issue of viability in relation to Earl Shilton SUE was ongoing
- The legal agreement relating to land west of Hinckley would be finalised following the conclusion of negotiations between the landowner and the developer
- There had been a public consultation in relation to the proposed new Aldi store on Hollier's Walk and a planning application was expected in due course
- The Estates & Asset Management team was working on the former leisure centre site and the co-op site.

RESOLVED – the report be noted.

(The Meeting closed at 7.03 pm)

CHAIRMAN

Planning Committee 10 October 2017
Report of the Head of Planning and Development

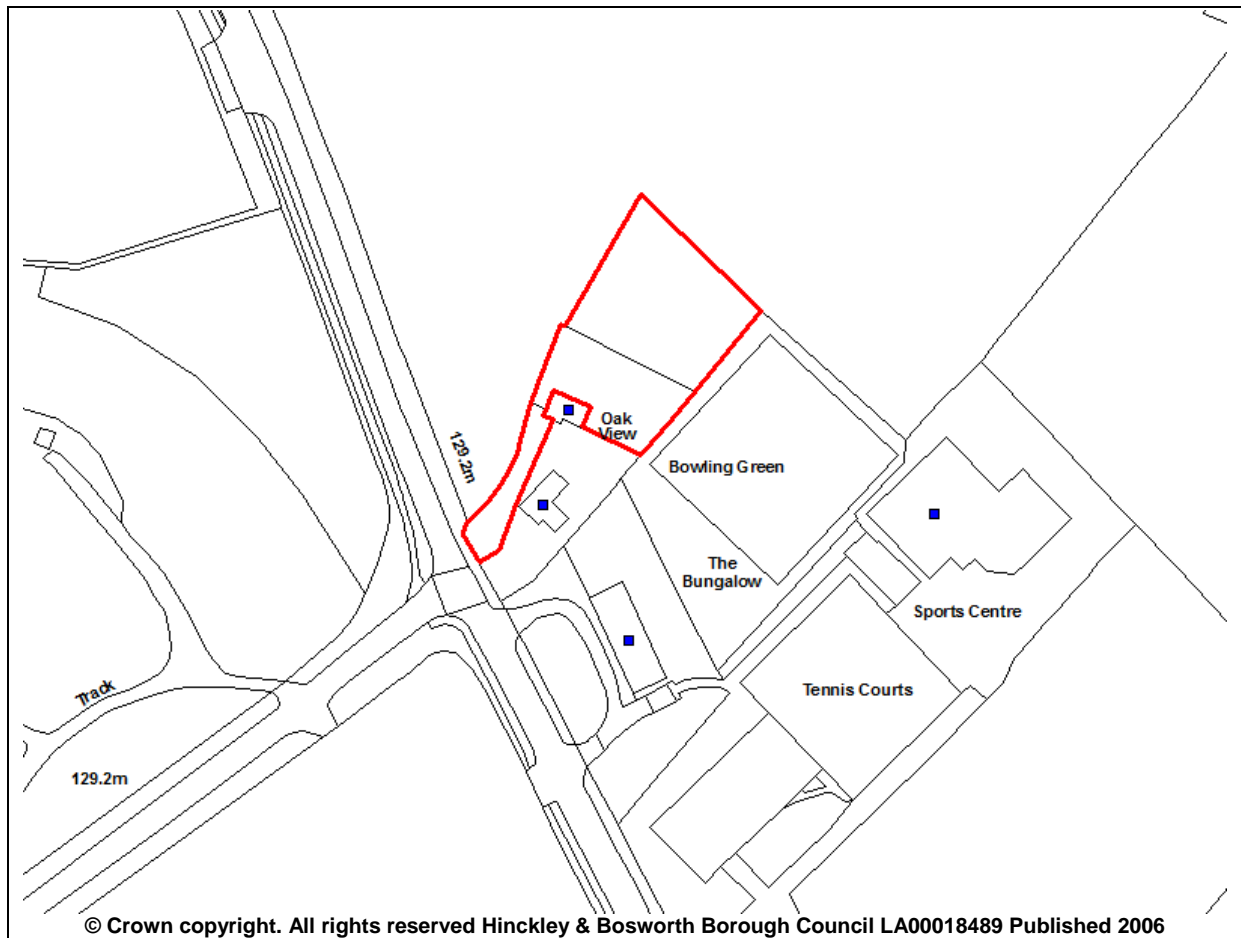
Planning Ref: 17/00848/OUT
Applicant: Mr & Mrs Botterill
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Oakview Peckleton Lane Desford

Proposal: Residential development for two detached dwellings (Outline - access only)



1. Recommendations

1.1. **Refuse planning permission** for the reasons at the end of this report.

2. Planning Application Description

2.1. This application seeks outline planning permission for the erection of two dwellings on land to the rear of Oak View, Peckleton Lane, Desford. This is an outline application with details provided of access only at this stage with layout, scale, appearance and landscaping subject to future reserved matters application(s). The proposed access to the site would be via an existing access which currently serves the residential property known as Oak View.

3. Description of the Site and Surrounding Area

- 3.1. The application site is located to the south of Desford outside of the settlement boundary within the countryside. The site is to the rear of Oak View and is currently used in association with Oak View's residential curtilage. The site is screened by hedges to all sides. Oak View is the sole residential property in proximity to the site; to the south is a sports complex and a place of worship. To the north and east of the site is open countryside. The land on the opposite side of Peckleton Lane is an allocated employment site on which there is an application pending consideration for a storage and warehouse facility under planning reference 16/00820/FUL.

4. Relevant Planning History

17/00506/OUT	Residential development (Outline - access only)	Refused	19.07.2017
--------------	---	---------	------------

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. No letters of objection or support have been received for this application

6. Consultation

- 6.1. No objections have been received from:
- HBBC Waste Services
 - HBBC Environmental Health (Drainage)
- 6.2. No comments were received from:
- Severn Trent Water
 - Desford Parish Council
- 6.3. Cadent Gas has raised no objection to the application; however, they have raised comments that some National Grid apparatus is in close proximity to the site and the applicant needs to be made aware of their responsibilities and obligations to the equipment.
- 6.4. HBBC Environmental Health (Pollution) has raised no objection to the application but have suggested a condition to ensure that the bedrooms in the proposed development are fitted with acoustic ventilation because of potential noise from the proposed storage and warehouse facility on the opposite side of the road.
- 6.5. Leicestershire County Council (Highways) has raised no objection to the application and suggested conditions to be imposed if the development were to be approved.

7. Policy

- 7.1. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards

- 7.2. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

Assessment against strategic planning policies

- 8.2. Policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved unless other material planning considerations indicate otherwise.
- 8.3. As of 1 April 2017 the Council can demonstrate a housing land supply of 5.74 years of deliverable sites within the Borough and therefore the relevant policies for the supply of housing within the development plan can be considered up-to-date in accordance with paragraph 49 of the NPPF.
- 8.4. As the site is located outside of the settlement boundary of Desford, within open countryside, Policy DM4 of the SADMP is relevant. Policy DM4 seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. The policy does not support the construction of new dwellings within the countryside unless it relates to the provision of accommodation for a rural worker in accordance with the criteria set out within Policy DM5 and also meets the relevant criteria within the second part of Policy DM4. This application is not for dwellings for an agricultural worker.
- 8.5. It is therefore considered that the proposed development would not constitute sustainable development within the countryside and is contrary to Policy DM4 of the SADMP.

Design and impact upon the character of the area

- 8.6. Policy DM4 requires that development which is considered sustainable in the countryside should not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and does not undermine the physical and perceived separation and open character between settlements.
- 8.7. Policy DM10 of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features with the intention of preventing development that is out of keeping with the surrounding area.
- 8.8. The application is in outline with all matters reserved apart from the means of access.
- 8.9. The application proposes the construction of two large dwellings to the rear of Oak View, Desford. The proposed dwellings would be sited to the rear of the sole isolated residential property in this area being located within the existing grounds of this property. To the rear; the site is surrounded by hedges and a line of mature

trees to the south boundary. The area in which it is proposed to site the new dwellings has an open rural character. The introduction of two dwellings would result in the loss of this openness. The proposed development would introduce an urbanised, built up form of development which would have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and would be contrary to Policies DM4 and DM10 of SADMP

Impact upon neighbouring residential amenity

- 8.10. Policy DM10 of the SADMP requires that development does not adversely affect the amenities or privacy of the occupiers of neighbouring properties.
- 8.11. An indicative layout has been submitted with this application, and, whilst this doesn't provide any details as to proposed boundary treatments or window placements, it is considered that a well designed scheme could demonstrate compliance with Policy DM10.
- 8.12. The indicative layout proposes two properties which have been reduced in size compared to the previous planning application 17/00506/OUT. The indicative layout which has now been shown demonstrates a reasonable amount of amenity space for the future occupiers. Therefore, the layout of the dwellings shown on the indicative plan is acceptable in terms of the amenities of the future occupiers of the site and is in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.13. Policy DM17 and DM18 of the SADMP require development to accord with the adopted highway design and vehicle parking standards to ensure that there is adequate highway visibility for road users and adequate provision of off street parking and manoeuvring facilities. Paragraph 32 of the NPPF states that development should only be refused on highway grounds where the residential cumulative impacts of development are severe.
- 8.14. Leicestershire County Council (Highways) has assessed the scheme and has no objections to the proposal as it could not be demonstrated that it would result in a material increase in traffic visiting the site. The Highways Authority has recommended a number of conditions which should be imposed if the application is to be approved.
- 8.15. It is therefore considered that the development is in accordance with Policy DM17 and DM18 of the SADMP.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The site is located outside of the settlement boundary of Desford in a countryside location. Policy DM4 of the SADMP is therefore applicable; the proposal to erect two dwellings fails to meet any of the criteria within Policy DM4 and the proposal is therefore considered to be contrary to Policy DM4 of the Site Allocations and Development Management Policies DPD. In addition, the proposed development would introduce an urbanised, built form of development which would have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and would be contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

11. Recommendation

- 11.1. **Refuse planning permission** subject to:

- The reasons at the end of this report.

11.2. Reasons

1. The proposed scheme is sited outside the settlement boundary of Desford in a countryside location. Policy DM4 of the Site Allocations and Development Management Policies DPD sets out the type of developments which can be considered to be sustainable development within the countryside, and the erection of new dwellings is not included within the criteria; the proposal is therefore considered to be an unsustainable form of development. In addition, the proposed development would introduce an urbanised, built up form of development which would have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and would be contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

11.3. Notes to Applicant

1. This application has been determined having regard to the following documents and plans submitted with the application, previous appeal decisions on the site and consultation responses received during the course of the application:- Planning Application Form, Design and Access Statement, Existing Site Plan (Drawing Number: 2831-01), Proposed Site Plan (Drawing Number: 2831-02 Rev a) and Proposed Site Plan (Drawing Number: 2831-03 Rev a) received by the Local Planning Authority on the 21 August 2017.

This page is intentionally left blank

Planning Committee 10 October 2017
Report of the Head of Planning and Development

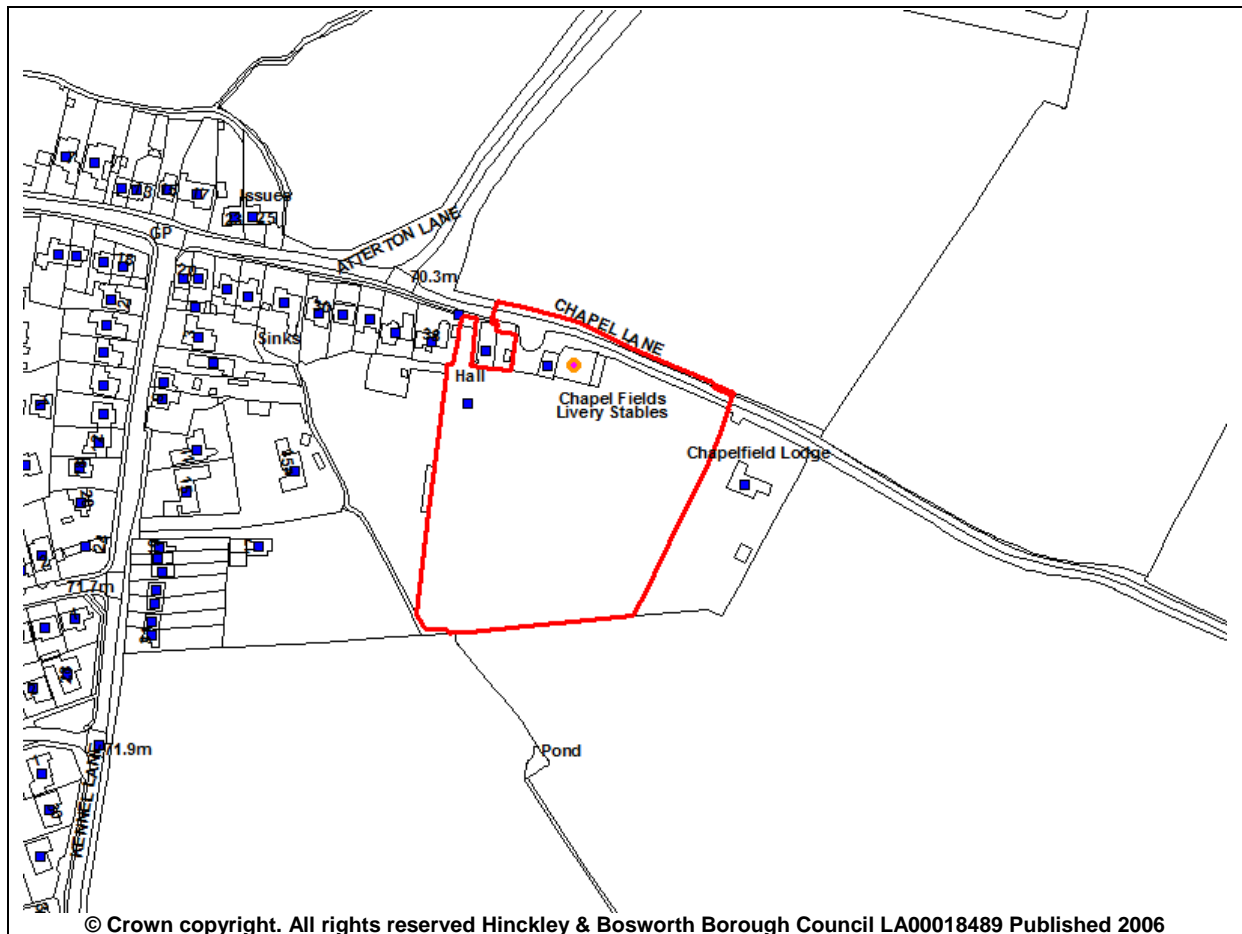
Planning Ref: 15/00441/FUL
Applicant: A R Cartwright Ltd
Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Land South Of Chapel Fields Livery Stables, Chapel Lane, Witherley

Proposal: Erection of 10 dwellings and associated access



© Crown copyright. All rights reserved Hinckley & Bosworth Borough Council LA00018489 Published 2006

1. Recommendations

1.1. **Refuse planning permission** subject to the reasons at the end of this report.

2. Planning Application Description

2.1. This application seeks planning permission for the erection of 10 dwellings comprising a mix of 2, 3 and 4 bedroom dwellings including two affordable units. Vehicular access would be onto Chapel Lane which is an unadopted, private road beyond the parish rooms. Chapel Lane would be widened to 4.8m wide and a footpath provided along the site frontage and would narrow to 3.7m at the parish rooms.

2.2. The proposed layout includes an informal parking layout for the Parish rooms to the north western corner of the site indicating a total of 6 car parking spaces.

2.3. The application was originally submitted proposing 21 dwellings but amended plans have been submitted during the determination of the application.

3. Description of the Site and Surrounding Area

3.1. The application site is located to the north east of Witherley, outside the settlement boundary and in the countryside. The area is primarily characterised by agricultural land with residential development in Witherley to the west. To the north, east and south of the application site is agricultural land with the exception of a single dwelling adjoining the east boundary of the site. In the north west corner of the application site is the parish rooms, a designated community facility.

3.2. The application site comprises agricultural land with two dilapidated buildings on the northern side adjoining Chapel Lane. The site is bound by a mix of hedgerow and trees and post and rail fencing. There are existing agricultural accesses onto the un-adopted section of Chapel Lane.

3.3. There is a public right of way running north to south along the western section of the application site. A large proportion of the south section of the application site is located within flood zones 2 and 3.

4. Relevant Planning History

97/00027/FUL	General purpose agricultural building	Permitted	05.03.1997
88/00813/4	Retention of 13 stables	Permitted	17.08.1988

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

5.2. 140 representations of objection have been received; the comments are summarised as follows:

- 1) Increase traffic through the village
- 2) Increase risk of incidents at the A5 and Kennel Lane junction
- 3) Queueing at the A5 junction;
- 4) Atterton Lane and Chapel Lane junction would be dangerous;
- 5) Construction traffic would be disruptive and dangerous;
- 6) There is a public footpath across the site;
- 7) Atterton Lane and Chapel Lane flood significantly;
- 8) The application site becomes waterlogged easily
- 9) Increase existing flooding issues
- 10) There are no amenities in the village, no shop and irregular bus services;;
- 11) Loss of greenfield site when we should utilise brownfield sites;
- 12) Loss of village and landscape character;
- 13) Witherley does not need executive housing;
- 14) Inadequate sewerage system;
- 15) Loss of car parking for the parish rooms;
- 16) Outside the settlement boundary and not allocated for development;
- 17) Ecological impact
- 18) High potential for archaeological remains on the site;
- 19) Agricultural vehicles use Chapel Lane
- 20) There are two more suitable sites in Witherley for developing before the proposed;

- 21) Witherley needs more affordable housing and there are better sites.
- 22) The proposed parking area for the Parish Rooms has restricted visibility; will be used by the dwellings; would conflict with the public right of way
- 23) Due to the proximity of plots 1 and 2 this would result in a noise complaints about the Parish Rooms which could have a detrimental affect
- 24) Greenfield sites should not be developed and development should be focused upon brownfield sites and unoccupied housing
- 25) Chapel Lane is too narrow and puts the hedgerow at risk of removal which should be preserved as an ancient hedgerow
- 26) No path outside of Parish Rooms and door leads straight onto Chapel Lane increase of traffic on Chapel Lane would result in safety risks

5.3. A petition objecting to the application has been received which was signed by 155 people. The majority of signatories also made representations detailed above.

5.4. 7 representations of support have been received; the comments are summarised as follows:

- 1) It will provide housing in the village for families wishing to move to Witherley;
- 2) More housing would make the village more affordable;
- 3) Would not detract from the village;
- 4) Good access to local areas and schools;
- 5) Witherley needs housing to sustain the village community.

6. Consultation

6.1. No objection, some subject to conditions, has been received from the following:

- Leicestershire County Council (Highways)
- Leicestershire County Council (Drainage)
- Leicestershire County Council (Rights of Way)
- Leicestershire County Council (Ecology)
- Leicestershire County Council (Archaeology)
- Environmental Health (Drainage)
- Environmental Health (Pollution)
- Waste Services
- Severn Trent Water
- Environment Agency
- Highways England

6.2. Arboricultural Officer – the trees to be removed near the village hall are of limited value and the oak and ash trees along the frontage are in very poor conditions and unsuitable for retention

6.3. Witherley Parish Council – object to the application; the comments are summarised as follows:

- Exacerbation of existing flooding issues and connection to an already over capacity system;
- Loss of parking to the parish rooms and associated congestion issues;
- Proposed parking for Parish Rooms is inadequate in size, will conflict with public right of way and rights of access, has poor visibility and would result in cars reversing onto Chapel Lane.
- Chapel Lane is a private road with an unrestricted speed limit and the inclusion of a chicane feature outside the parish rooms would be dangerous;
- There is insufficient car parking to serve the occupiers of the dwellings and limited access to facilities and public transport;

- The type and quantity of affordable housing does not meet the needs of Witherley;
 - The type of houses proposed are too large and do not those most required in the Borough (2 and 3 bedrooms)
 - There is insufficient information on what would happen with the remainder of the site;
 - The development would have an urbanising impact on the character of the countryside and would be contrary to the Fenn Lanes Character Area;
 - The proposed development is outside the settlement boundary;
 - HBBC have a five year housing land supply;
- 6.4. David Tredinnick MP – writes on behalf of his constituents who wish to object to the application based on the following reasons:
- Outside the settlement boundary and in the open countryside;
 - Traffic generated is likely to exceed the highway capacity and cause accidents at the A5 junction;
 - Loss of greenfield/agricultural land;
 - Planning permission has been refused for similar developments in Witherley;
 - The affordable housing does not meet the needs of Witherley;
 - The design and scale of the dwellings is out of keeping with the village;
 - There is potential for archaeological heritage assets;
 - Additional pressure on local infrastructure;
 - Increase the likelihood of flooding;
- 6.5. Leicestershire County Council (Developer Contributions) have requested the following:
- Secondary School Education - £29,853.20
 - Post 16 Education- £6,378.21

7. Policy

- 7.1. Core Strategy (2009)
- Policy 12: Rural Villages
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 19: Green Space and Play Provision
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Ecological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Planning obligations
- Ecology
- Archaeology
- Other matters

Assessment against strategic planning policies

- 8.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.3. Paragraph 17 of the NPPF iterates that the core planning principles; one of which is that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- 8.4. From the most up to date figures available, as at 1 April 2017 the authority is able to demonstrate a 5.74 year housing land supply of deliverable sites within the borough and therefore the relevant policies for the supply of housing within the development plan (Core Strategy and SADMP) can be considered up-to-date in accordance with paragraph 49 of the NPPF.
- 8.5. Policy 12 of the Core Strategy seeks to support existing services in the villages listed, of which Witherley is one, by supporting housing development in settlement boundaries that provides a mix of housing types and tenures and development that complies with Policy 17: Local needs. It should be noted that this development is outside the settlement boundary and is not considered to be a Local Choice or Rural Exception Site for housing and therefore the development is not supported by the above policy considerations.
- 8.6. Policy 12 identifies that the Council will work with the Highways Agency to address identified problems with the A5/Kennel Lane junction and if these problems can be overcome, the Council will allocate land for limited housing development at Witherley.
- 8.7. The SADMP iterates that since the adoption of the Core Strategy, discussions have taken place with Highways England (formerly Highways Agency) to determine whether issues with junction capacity on the A5 can be overcome to allow for a low level of residential development in Witherley. Whilst comments were positive towards the principle of one selected site Highways England identified that access would not be a viable option for this site as the access lane is un-adopted and unsuitable for further development of this nature. As a result no residential development was allocated for Witherley.
- 8.8. The SADMP is the most up to date policy document and does not allocate development for Witherley. Therefore the site is outside the identified settlement boundary for Witherley and is within the open countryside to which Policy DM4 of the SADMP is relevant.

- 8.9. Policy DM4 states that: to protect the intrinsic value, beauty, open character and landscape character of the countryside, it will first and foremost be safeguarded from unsustainable development. The Policy sets out a list of instances where development in the countryside would be considered sustainable. New build residential development (unless it relates to the provision of accommodation for a rural worker in line with Policy DM5 – Enabling rural Worker Accommodation which this application is not for) is not included within the development that would be considered as sustainable and appropriate in the countryside and therefore the proposed development does not accord with Policy DM4.
- 8.10. The proposed development is not supported by Policy 12 of the Core Strategy and would be contrary to the spatial distribution for growth as set out in the Development Plan and would be contrary to Policy DM4 of the SADMP.

Design and impact upon the character of the area

- 8.11. Policy DM4 of the SADMP seeks to ensure development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It should be noted that as the development is not considered to be sustainable development in the countryside in accordance with the first part of Policy DM4, and therefore any harm to the intrinsic value, beauty, open character and landscape character of the countryside would be unjustified.
- 8.12. The site is located within the Fen Lanes Character Area, identified in the Landscape Character Assessment June 2006. This character area is identified as having the following key characteristics:
- Predominantly flat valley landscape with areas of gentle undulations
 - Predominantly arable with some occasional pasture
 - Small woodland clumps and willow trees associated with watercourses
 - Mixed field pattern of large to medium size with broke hedgerows. Hedgerow trees are either scattered or in clumps along roads and near watercourses
 - Small dispersed settlements clustered around cross-roads, with isolated farmsteads
 - A444 forms main route through the area with small lanes leading off and many footpaths
 - Open aspect but views are occasionally curtailed by copses, hedgerow vegetation and limited vantage points
 - Frequent streams and ditches
- 8.13. The area surrounding the application site is predominantly rural in nature with agricultural land to the north, east and south. There is primarily linear residential development fronting onto Kennel Lane and Atterton Lane to the west. The application site is largely grassland with two dilapidated buildings on the north side. The site provides a green, open, rural edge to the north east of the village. Boundary treatments around the application site comprise post and rail fencing, hedgerows and mature trees. The site is rural in nature and positively contributes to the character of the countryside and rural setting of the village.
- 8.14. A Landscape Appraisal was submitted with the original application for 21 dwellings and has not been amended to reflect the reduction in development on site. The submitted landscape appraisal concludes that the *'visual effects of the proposed development will be localised, with the more significant changes affecting near views, and occurring along a short section of Chapel Lane and from public footpath*

T28 within the open field to the south/south-east of the site. Whilst there would be partial and glimpsed views of the development from other locations in and around the village, these are generally curtailed by the presence of intervening, existing tree and hedgerow features, and the new housing would be seen in the context of the existing buildings at this edge of the settlement.' Additionally the report identifies that the development '*will become comfortably absorbed into this village-edge setting within the medium term timescale of around 10 years, with minimal adverse effects upon the wider landscape setting of Witherley.'* However, it must be noted that this conclusion relates to the originally submitted scheme which is significantly different to the scheme which is now proposed.

- 8.15. The proposed development would extend the built form of Witherley to the east along Chapel Lane which currently comprises a private unadopted lane. The requirement to widen Chapel Lane to facilitate the development would fundamentally and unsympathetically alter the character of the rural lane having an urbanising impact. The introduction of dwellings at depth from the road frontage would result in dwellings projecting into the surrounding countryside and would be contrary to the character of the adjacent development to the west which comprises primarily linear development fronting onto roads. Furthermore, the proposed development includes the erection of some large dwellings which would appear prominent and are not sympathetic to the rural setting.
- 8.16. The uncharacteristic nature of the development would drastically impact upon users of the public right of way which runs through the site from north to south and approaches the village from the south east across an adjacent agricultural field. The approach to the village along the public right of way would alter the perceived character of the village which is currently sympathetic to the rural character with the most eastern development along Chapel Lane comprising low forms of development and visible development fronting Kennel Lane being part of the built up area. In addition to the users of the public right of way, the development would be located adjacent to the well used Parish Rooms and therefore the extent of the change to the rural character would be impact on wider members of the community. The introduction of built form and development of larger dwellings in this location would constitute an unsympathetic intrusion into the countryside and urbanise the eastern side of the village.
- 8.17. It is considered that the proposed development would not complement the existing surrounding built form and the intrusion into the countryside would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the SADMP.
- 8.18. Policy 16 of the Core Strategy requires a mix of housing types and tenures to be provided on all sites of 10 dwellings or more taking into account the type of provision that is likely to be required by utilising Table 3 as a starting point for housing mix. Table 3 highlights that 32% should be medium and larger units and 64% should be smaller and medium units. The development proposes: 2 x two bedroom house, 6 x four bedroom house and 2 x five bedroom houses equating to 20% smaller and medium units and 80% medium and larger units. Notwithstanding the above visual impacts of having larger dwellings, whilst the housing mix is not in accordance with the starting point policy stance, it is not considered that the additional provision of larger dwellings would justify a reason for refusal having regard to the development comprising 10 dwellings.

Impact upon neighbouring residential amenity

- 8.19. Policy DM10 of the SADMP seeks to ensure that development would not have a significantly adverse effect on the privacy and amenity of nearby residents and

occupiers of adjacent buildings. The application site adjoins Chapelfield Lodge to the east and the Parish Rooms and 38 Atterton Lane to the west.

- 8.20. Plots 8 – 10 would have their rear elevations facing east towards Chapelfield Lodge. The gardens of the dwellings would be approximately 12m deep and there are existing boundary treatments prohibiting overlooking whose retention could be secured through a landscape condition. The dwellings would be sufficiently separated from Chapelfield Lodge to avoid any adverse impacts.
- 8.21. The dwellings would be in close proximity to the Parish Rooms with the rear elevations of plots 1 & 2 and front elevations of points 4 & 5 facing the building. Having regard to the use of the Parish Rooms, it is considered that the dwellings would not have an impact that would be harmful to the users of the building. Concern has been raised that the development would lead to a loss of car parking for the users of the Parish Rooms. This is not an amenity issue and is dealt with in the below section relating to the highways impacts. Additionally comments have been raised that residential dwellings within close proximity to the Parish Rooms would limit its use. No concerns have been raised by Environmental Health with regards to noise impacts upon future residential amenity and it is not considered that the dwellings would restrict the use of the Parish Rooms.
- 8.22. The proposed dwellings would be sufficiently separated from 38 Atterton Lane to avoid any adverse impacts on neighbouring amenity.
- 8.23. The proposed development would lead to additional vehicular movements through the village and in front of the dwellings fronting onto Atterton Lane. Whilst these are likely to generate some additional noise and disturbance, it is considered that the noise and disturbance would not amount to any material harm to the occupiers of the dwellings.
- 8.24. The proposed development would not have an adverse impact on the privacy and amenity of nearby residents and occupiers of adjacent buildings and is in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.25. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.26. This application was initially submitted for 21 dwellings but has been reduced to 10 dwellings. The application was accompanied by a Transport Statement and subsequently a revised Road Safety Audit and Technical Note have been submitted.
- 8.27. Vehicular access to the site is currently via Chapel Lane which forms part of the un-adopted, private section of the road. It is proposed to widen and upgrade a section of Chapel Lane at the frontage of the site to adjoin the adopted highway of Chapel Lane adjacent to the Parish Rooms. At the Parish Rooms it is not possible to widen the road and therefore the road would narrow. Adjoining Chapel Lane would be three driveways serving individual dwellings, two shared private driveways; a turning head would be provided between plots 2 and 3 and an access to an informal parking area for the Parish Room. As Chapel Lane is a derestricted road concern has been raised over potential vehicle speeds along the road and safety due to vehicle trips. Leicestershire County Council (Highways) has raised no objection to the proposed layout, subject to conditions, but has highlighted that the road would remain private and due to ownership issues the road be unlikely to be adopted.
- 8.28. The proposed development would result in additional vehicular movements generated through the village and Strategic Highway Network. The junction of

Bridge Lane and the A5 was reviewed for upgrading but was discounted due to the inability to provide sufficient visibility. As a result, it is proposed to upgrade the junction of Kennel Lane and the A5. Significant concern has been raised by residents relating to the safety of the junction and queueing times. Initially, several concerns were raised by Highways England regarding the upgrading of the junction resulting from outstanding details. However, the submission of a revised Road Safety Audit, a document responding to the concerns raised and a Departures from Standards Report, have collectively addressed the issues. Highways England consider the junction of Kennel Lane and the A5 can be adequately upgraded to mitigate the impact of the development and therefore raise no objection subject to a condition requiring the works to the junction.

- 8.29. Concern has been raised that the application site currently provides some car parking for users of the Parish Rooms which would no longer be available should the application be approved. However, It is understood that the car parking arrangement is informal and could be restricted at any time should the landowner choose. Notwithstanding this the applicant has included an 'informal parking area' to the west of the Parish Rooms. The access to this parking area does not achieve the full vehicular splays to the right of the access, required in accordance with the 6C's Design Guide. However LCC Highways have concluded that given the likely speeds of vehicles approaching from the right the visibility is sufficient. The parking area would be shared with the public right of way, however it is considered that due to the open character of the parking area and its use only in conjunction with the Parish Rooms it would not result in a highway safety issue of conflicts with the public right of way and is acceptable. Whilst the parking area is restricted in size It is also considered that there is enough room within it to allow vehicles to manoeuvre to leave the site in a forward gear.
- 8.30. The proposal includes a minimum of two parking spaces serving the two bedroom dwellings and three parking spaces serving four and five bedroom dwellings. It is considered that the provision of car parking proposed would be sufficient to serve the occupiers of the dwellings.
- 8.31. There is a public footpath (T28) running across the application site. The proposal does not propose to alter the line of the public footpath.
- 8.32. It is considered that the proposed development would not have an adverse impact on vehicular or pedestrian safety and would provide sufficient car parking for the occupiers of the development. The development is in accordance with Policies DM17 and DM18 of the SADMP.
- 8.33. Flood risk and drainage
- 8.34. Policy DM7 of the SADMP seeks to ensure that surface water and groundwater quality are not adversely impacted by new development and that it does not exacerbate flood risks.
- 8.35. Significant concern has been raised by residents regarding existing flooding issues in and around the application and Witherley.
- 8.36. This application was initially submitted for 21 dwellings with a large proportion of the site being within flood zones 2 and 3. Leicestershire County Council (Drainage) requested that hydraulic modelling be undertaken due to the potential associated risks of flooding from surface water and Witherley Brook which is located close to the south western corner of the site. Following the modelling the area to be developed and number of dwelling proposed was reduced to 10.
- 8.37. Development within the application site is now wholly within flood zone 1 and a therefore at low risk from fluvial (river) flooding. Finished floor levels of 600mm

above ground level and access routes of 300mm above flood level area proposed to ensure acceptable level of flood resilience which shall be secured through a planning condition A preliminary surface water drainage strategy has been submitted to demonstrate that the development would not result in additional surface water runoff and therefore would not exacerbate existing flooding issues in the surrounding area. Environmental Health (Drainage), Leicestershire County Council (Drainage), Severn Trent Water and the Environment Agency have been re-consulted on the application since initially submitted and raise no objection subject to the imposition of planning conditions.

- 8.38. It is considered that, subject to conditions, the proposed development would not exacerbate or create flood risk on or off the site and is in accordance with Policy DM7 of the SADMP.

Planning obligations

- 8.39. Policy DM3 of the SADMP seeks to ensure that where development creates a need for additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism. The planning practice guidance states that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. The dwellings have a combined gross floorspace in excess of 1,000 square metres and therefore the contributions in accordance with policies in the Development Plan are sought.

- 8.40. A viability appraisal has been submitted with the scheme, which has identified that a scheme with 40% Affordable dwellings (4 dwellings) would not be viable and the development can only deliver 20% (2 dwellings). However the viability appraisal does not contest any other planning obligations. Policy DM3 of the SADMP states that where because of physical circumstances of the site and/or prevailing and anticipated market conditions, a developer can demonstrate that the viability of a development proposal affects the provision of affordable housing and/or infrastructure provision, the Council will balance the adverse impact of permitting the scheme on the delivery of such provision with any identified planning benefits of the scheme.

Green space and play provision

- 8.41. Policy 19 of the Core Strategy requires new residential development to contribute towards the provision and maintenance of public play and open space facilities where there is an existing deficiency. There is an identified deficiency in quality of equipped children's play space, casual/informal play space and outdoor sports provision at Witherley Memorial Playing Field which is within a reasonable distance of the site. Therefore, the following contributions are sought:

- Equipped Children's Play Space @ Witherley Memorial Playing Field - £5,222.88 (provision) & £2,545.20 (maintenance)
- Casual/Informal Play Space @ Witherley Memorial Playing Field - £1,034.88 (provision) & £890.40 (maintenance)
- Outdoor Sports Provision @ Witherley Memorial Playing Field - £5,283.84 (provision) & £5,068.80 (maintenance)

- 8.42. There are no designated natural green spaces within a reasonable distance of the site and therefore a contribution will not be sought towards improving accessibility to this type of facility.

- 8.43. The above contributions are considered to be CIL compliant and should be secured through a S106 agreement prior to determination

Education

- 8.44. Leicestershire County Council (Education) has been consulted and requested the following contributions:
- 8.45. The site falls within the catchment area of Witherley C of E Primary School. The School has a net capacity of 105 and 113 pupils are projected on roll resulting in a deficit of 8 pupil places. In order to provide the additional primary school places anticipated by the proposed development, the County Council requests a contribution for the primary school sector of £29,037.62 to be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Witherley C of E Primary School.
- 8.46. The site falls within the catchment area of Market Bosworth School. The School has a net capacity of 695 and 774 pupils are projected on roll resulting in a deficit of 79 pupil places. In order to provide the additional 11-16 school places anticipated by the proposed development, the County Council requests a contribution for the 11-16 school sector of £29,853.20 to be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Market Bosworth School.
- 8.47. The nearest Post 16 education facility to the site is Bosworth Academy. The College has a net capacity of 203 and 307 pupils are projected on roll resulting in a deficit of 104 pupil places. This development would account the 1 pupil generated. In order to provide the additional post 16 school places anticipated by the proposed development, the County Council requests a contribution for the post 16 school sector of £6,378.21. The contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Desford Bosworth Academy.
- 8.48. The above contributions are considered to be CIL compliant and should be secured through a S106 agreement prior to determination

Affordable housing

- 8.49. Policy 15 of the Core Strategy expects a proportion of affordable housing to be provided on eligible sites. The starting point for the level and target for affordable housing in rural areas is 40% on sites of 4 dwellings or more.
- 8.50. The viability appraisal identifies that the scheme would be unviable if the development delivered 4 affordable dwellings. The viability appraisal has been independently assessed for the council and has concluded that the scheme cannot deliver 4 affordable dwellings, however 2 could be achieved.
- 8.51. Following discussions with the Housing Strategy and Enabling Officer it is considered that a registered provider would not be willing to accept 2 affordable dwellings within this location. It is therefore considered in this instance that an off site commuted sum would be appropriate.
- 8.52. A sum of £60,962.38 has been agreed as a commuted sum towards affordable housing. Following advice from the independent assessment of the viability appraisal it is considered that this sum is appropriate and acceptable for this scheme.
- 8.53. A heads of terms has been submitted identifying the above contributions. Therefore the applicant is willing to enter into a Section 106; however this has not been pursued as the application is recommended for refusal.

Ecology

- 8.54. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation.

- 8.55. An ecological appraisal and reptile survey have been submitted with the application. The appraisal finds that there may be some potential for bat foraging in and along the site boundaries and that some trees have moderate potential for bat roosts although these are not impacted by the proposed development. The reptile survey concludes that reptiles are likely to be absent from the site. Leicestershire County Council (Ecology) has raised no objection to the proposed development and confirmed no additional surveys or works are required.
- 8.56. It is considered that the proposed development would not have an adverse impact on any features of nature conservation and is in accordance with Policy DM6 of the SADMP.

Archaeology

- 8.57. Policy DM13 of the SADMP state that where a proposal has potential to impact on a site's archaeological interest, developers should set out in their application an appropriate desk-based assessment. Developments should preserve archaeological remains in situ or, where not feasible and fully justified, undertake full investigation and recording of remains.
- 8.58. A desk based assessment has been submitted with the application which confirms that the site is located within an area of good potential for the presence of Roman archaeological remains. Leicestershire County Council (Archaeology) recommends that an initial phase of exploratory trial trenching be undertaken, specifically targeting those areas to be impacted by the development proposals, with a further phase of mitigation to be informed by the results of the trenching. The further investigation can be secured through the imposition of a planning condition.
- 8.59. Subject to further investigation, it is considered that the proposed development would adequately preserve, or investigate and record, archaeological remains in accordance with Policy DM13 of the SADMP.

Other matters

- 8.60. Concern has been raised that the existing sewerage system serving the area is insufficient to be able to accommodate the proposed development. Severn Trent Water has raised no objection to the development subject to a condition requiring the submission of foul water drainage details.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
(1) A public authority must, in the exercise of its functions, have due regard to the need to:
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The application site is outside the settlement boundary of Witherley and within the countryside. The proposed development is not supported by Policy 12 of the Core

Strategy and would be contrary to the spatial distribution for growth as set out in the Development Plan and would be contrary to Policy DM4 of the SADMP.

- 10.2. By virtue of the location, layout and scale, the proposed development would not complement the existing surrounding built form and would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the SADMP.
- 10.3. The proposed development would not deliver sufficient on-site affordable housing in accordance with Policy 15 of the Core Strategy; however viability details have been submitted which identify that the proposed commuted sum is acceptable in this instance. Open space and education contributions are also sought for the impact of the development upon local infrastructure in line with Policy DM3 of the SADMP.
- 10.4. Notwithstanding the above, the proposal would not have an adverse impact on neighbouring amenity, highway safety, flood risk, ecology nor archaeology.

11. Recommendation

- 11.1. Refuse planning permission subject to the reasons at the end of this report.

11.2. Reasons

1. The proposal would result in unsustainable residential development in the designated countryside outside the settlement boundary of Witherley. The proposal would fail to complement or enhance the intrinsic value, beauty, undeveloped rural character of the countryside and the rural setting of the village. The proposal is therefore contrary to Policy 12 of the Core Strategy (2009) and Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).
2. By virtue of the location, layout and scale, the proposed development would not complement the existing surrounding built form and would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).

11.3. Notes to Applicant

1. This application has been determined based on the submitted: amended application form, archaeological desk based assessment, ecological appraisal and reptile survey, Stage 1 Road Safety Audit rev 1, Departures from Standards Report, Trip Distribution Technical Note, Technical Note: Response to Local Highway Authority Consultation Comments, Flood Risk Assessment and the following drawings:
 - 13/126 29C - Site Location Plan (received on 10.05.2017)
 - RC100-BWB-EWE-XX-DR-EN-0013 S2 P6 – Outline Surface Water Drainage Strategy (received on 10.05.2017)
 - 13/126 17D – HT E – Plans / Elevations (received on 10.05.2017)
 - 13/126 19G – HT G – Plans (received on 10.05.2017)
 - 13/126 35K – Site Plan (received on 25.09.2017)
 - 13/126 36A – Nightingale (received on 10.05.2017)
 - 13/126 37 – Merlin (received on 10.05.2017)
 - 13/126 38 – HT E – Plans / Elevations Handed (received on 10.05.2017)
 - 13/126 40 – Garage (received on 10.05.2017)
 - 08/124 39 – plots 1-2 (received on 10.05.2017)
 - KL.350.001 Rev A – Soft Landscaping Proposal (received on 25.09.2017)

This page is intentionally left blank

Planning Committee 10 October 2017
Report of the Head of Planning and Development

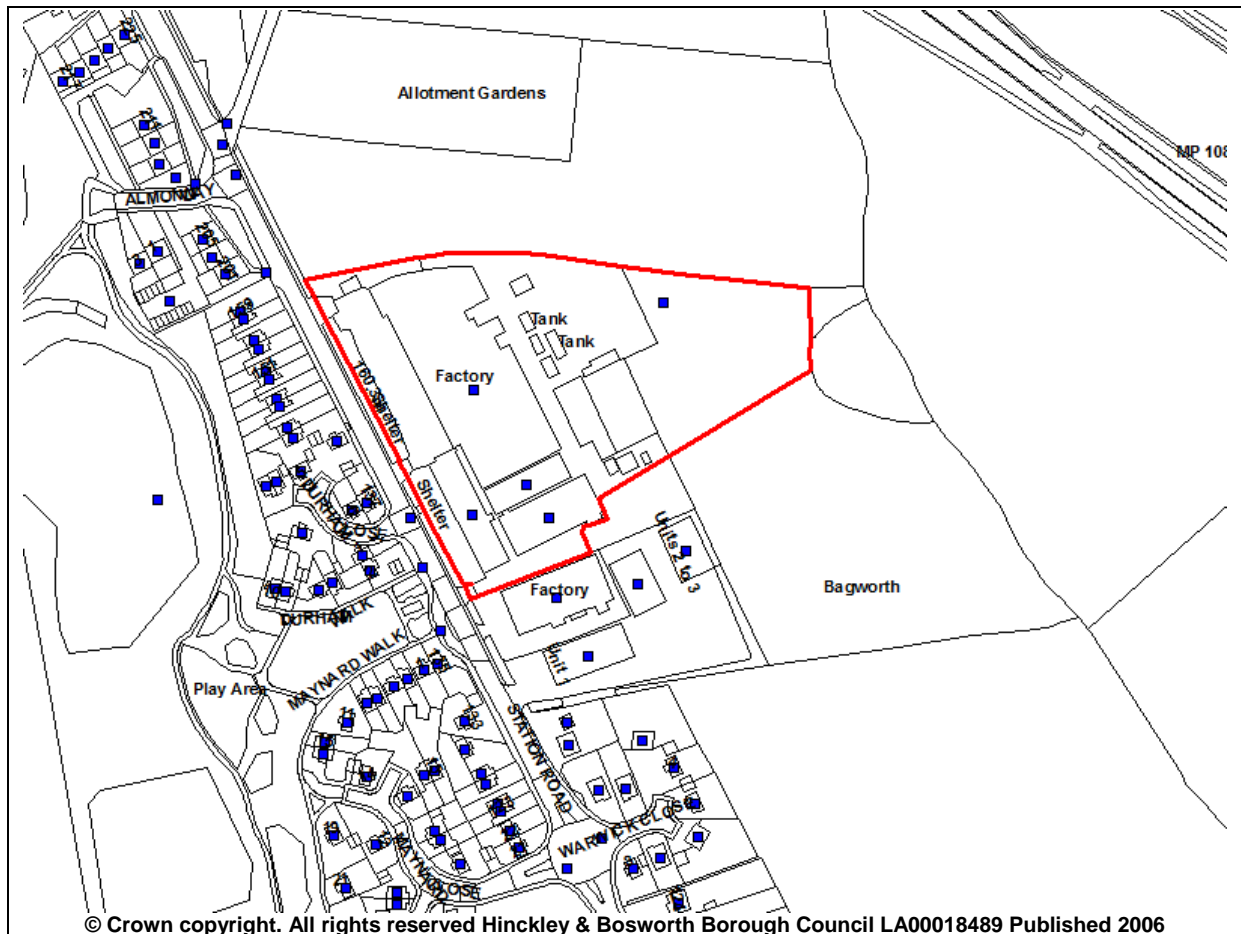
Planning Ref: 17/00634/FUL
Applicant: Partner Construction
Ward: Ratby Bagworth And Thornton



Hinckley & Bosworth
Borough Council

Site: Dunlop Limited Station Road Bagworth

Proposal: Demolition of existing industrial unit and erection of 61 dwellings



1. Recommendations

1.1. Grant planning permission subject to::

- The prior completion of a S106 agreement to secure the following obligations:
 - 100% affordable housing provision
 - Primary education - £82,831.00
 - Off-site acoustic fence details, provision and maintenance
 - Off-site landscaping details, provision and maintenance
- Planning conditions outlined at the end of this report.

1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

- 1.3. That the Head of Planning and Development be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

2. Planning Application Description

- 2.1. This application seeks planning permission for the erection of 61 dwellings and associated infrastructure. The development proposes 100% affordable housing of a social rented tenure only and comprises the following mix of dwellings
- 4 x 1 bedroom flats;
 - 25 x 2 bedroom houses; and
 - 32 x 3 bedroom houses.
- 2.2. The layout of the scheme has been substantially amended during the assessment of the application.

3. Description of the Site and Surrounding Area

- 3.1. The application site is bounded by residential properties to the west facing Station Road and to the north and east are fields. Adjoining the southern end of the application site is an employment/industrial site.
- 3.2. The application site consists of derelict buildings previously used by Dunlop and land to the east comprising some woodland planting. The former Dunlop site consists of a range of industrial buildings of various ages, styles and sizes and areas of hardstanding. Boundary vegetation within the site comprises tree lined hedgerows to Station Road and the north of the site.

4. Relevant Planning History

14/00426/OUT	Redevelopment of former factory for residential development and employment (B1 and B2) (outline - access only)	Approved	19.01.2016
11/00063/OUT	Erection of up to 61 dwellings and 2800 square metres of employment floorspace (class b1) (outline - access and layout only)	Approved	28.04.2011
10/00640/OUT	Mixed use development comprising up to 68 dwellings and employment (use classes b1c and b2) (outline - access only).	Refused	02.12.2010

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. Six letters of objection and one letter neither supporting nor objecting to the application has been received; the comments are summarised as follows:
1. 100% social housing would not benefit the area as there is not a requirement for this many affordable dwellings;
 2. The existing vegetation should not be removed;

3. The development will create a greater need for facilities including schools, doctor's surgeries, community facilities and parks;
4. There is no bus service in the evening;
5. The proposed house designs are characterless and drab;
6. There are existing issues with cars speeding along Station Road;
7. The noise assessment does not adequately assess the noise from the adjacent businesses to the south;
8. The adjacent business can operate for 24 hours and on Saturdays.

6. Consultation

- 6.1. No objection, some subject to conditions, has been received from the following:
 - Leicestershire County Council (Highways)
 - Leicestershire County Council (Ecology)
 - Leicestershire County Council (Drainage)
 - Severn Trent Water
 - Environment Agency
 - Environmental Health
 - Affordable Housing Officer
 - Waste Services
- 6.2. National Forest Company – the proposal results in the loss of woodland cover. Additional planting is required on-site and a contribution towards off-site woodland planting
- 6.3. As a result of the Developer Contribution consultation, the following planning obligations are sought:
 - Leicestershire County Council (Civic Amenities) - £3,988.00
 - Leicestershire County Council (Libraries) - £1,840.00
 - Leicestershire County Council (Education) –
 - Primary education - £177,129.51
 - Upper school education - £76,072.60
 - Post 16 education - £38,849.08
 - Leicestershire County Council (Highways) –
 - Travels packs – £52.85 per dwelling
 - Bus passes – two per dwelling at £350 per pass
 - Improvement to bus stops – two nearest bus stops at £3852 per stop
 - NHS West Leicestershire CCG - £18,290.88
- 6.4. Cllr C Boothby – there are existing issues with speeding drivers through Bagworth and illegal drivers. It should be explored whether there a possibility of providing an ANPR Camera that can identify illegal drivers.
- 6.5. Bagworth and Thornton Parish Council – conditionally object to the application because the development is not sustainable development for the following reasons:
 1. There is an acute problem of educational provision for primary and secondary school places in the surrounding schools;
 2. The previously approved planning permission secured a contribution of £35,794.80 towards off-site open space and a pedestrian crossing on Station Road;
 3. The settlement has no GP practice, supermarket, pharmacy, post office, library or dentist and has no significant employers.

7. Policy

- 7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
 - Policy 10: Key Rural Centres within the National Forest
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 19: Green Space and Play Provision
 - Policy 21: National Forest
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy SA4: Former Dunlop Factory, Station Road, Bagworth
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)
- 8. Appraisal**
- 8.1. Key Issues
- Assessment against strategic planning policies
 - Affordable housing
 - Design and impact upon the character of the area
 - Impact upon amenity
 - Impact upon highway safety
 - Flood risk and drainage
 - Ecology
 - Contamination
 - Play and open space
 - Planning obligations
 - Viability
 - Demolition and construction
- Assessment against strategic planning policies
- 8.2. The application site is located within the settlement boundary of Bagworth and forms part of a designated mixed-use allocation.
- 8.3. Policy 7 of the Core Strategy identifies that to support the Key Rural Centres and ensure they can provide key services to their rural hinterland, the Council will support housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16.
- 8.4. Policy 10 of the Core Strategy identifies that to create a new sense of place and improve the provision of local services the Council will allocate land for the development of a minimum of 60 new homes at Bagworth.
- 8.5. Policy SA4 of the SADMP states that development proposals for the site at the Former Dunlop Factory should ensure a mixed-use development which:
- Retains a minimum of 2,800sqm of B1/B2 employment floor space on site;
 - Provides B1/B2 starter units of between 150-300sqm on site;

- Delivers a minimum of 61 dwellings with a housing density, mix and design in line with Core Strategy Policy 16; and
 - Ensures the amenity of future occupiers of both residential and employment units would not be adversely affected in line with Policy DM10.
- 8.6. This application seeks planning permission for the erection of 61 dwellings. The number of dwellings would be in accordance with Policies 7 and 10 of the Core Strategy and Policy SA4 of the SADMP.
- 8.7. The proposed development forms part of the allocation SA4 which seeks provision for B1 and B2 uses. The application site only forms part of the mixed-use allocation and retains sufficient land to the south which would be able to meet the employment needs as identified in Policy S4.
- 8.8. The application is considered to be acceptable in-principle in accordance with Policies 7 and 10 of the Core Strategy and Policy SA4 of the SADMP, subject to an assessment of the impact of future occupiers made below, and satisfying all other relevant policies and material planning considerations.

Affordable housing

- 8.9. Policy 15 of the Core Strategy states that to support the provision of mixed, sustainable communities, a minimum of 2090 affordable homes will be provided in the borough from 2006 to 2026. At least 480 dwellings will contribute to this target in rural areas. Policy 15 requires that for all sites, the tenure split will be 75% social rented and 25% intermediate housing. These figures may be negotiated on a site by site basis.
- 8.10. It has been identified that there is currently 738 applicants on the register for affordable dwellings, 12 of which have a connection to Bagworth. The Residential Land Availability Monitoring Statement for 1 April 2016 – 31 March 2017 identifies that since the start of the plan period to 31st March 2017, 947 affordable dwellings have been provided. Therefore, the requirement to provide 2090 dwellings by 2026 is not on track to being met and the proposed development of 61 affordable dwellings with no market dwelling provision should be given significant weight as it would make a significant contribution towards meeting this identified need.
- 8.11. This development proposes 61 dwellings on the site all of which would be of a social rented tenure. Bagworth is a settlement which falls within the Protected Rural Areas in national guidance. This restricts the sale of shared ownership homes to 80% of the full market value, or oblige the Registered Provider to purchase the dwelling from the owner should they wish to sell the property. Such restriction makes it more difficult to obtain mortgages for the properties.
- 8.12. Consultation between the interested Registered Provider, the Local Planning Authority and relevant ward members has resulted in a clear preference for delivery of the site as 100% affordable rented housing in order to maximise the retention of affordable housing stock for future. Whilst the tenure is not consistent with the 75% social rented and 25% intermediate housing split as set out in Policy 15, it is the preferred option for this specific site and therefore is in accordance with Policy 15.
- 8.13. Since the site is in a rural area of the Borough, a cascade mechanism should be included within the Section 106 agreement to give preference in the first instance to applicants with a connection to the Parish of Bagworth and Thornton. If there are surplus applicants from the parish the properties can be offered to people with a connection to the Borough of Hinckley and Bosworth.
- 8.14. The proposed development would make a significant contribution towards meeting the identified affordable housing needs of the Borough over the plan period in

accordance with Policy 15 of the Core Strategy. Whilst the tenure split is not as set out in Policy 15, the tenure has been agreed which meets the site-specific need.

Design and impact upon the character of the area

- 8.15. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.16. Policy 16 of the Core Strategy requires a mix of housing types and tenures to be provided taking into account the type of provision that is likely to be required
- 8.17. Policy 21 of the Core Strategy seeks to support proposals that contribute to the delivery of the National Forest Strategy where the siting and scale of the proposed development is appropriately related to its setting within the Forest, the development respects the character and appearance of the wider countryside and the development does not adversely affect the existing facilities and working landscape of either the Forest or the wider countryside
- 8.18. The proposed development comprises a mix of 1 bedroom flats, 2 bedroom houses and three bedroom houses which provides a mix of dwelling types to provide variation and meet the identified housing requirements. Whilst some larger dwellings would usually be incorporated within large developments, these cannot be provided on the scheme for 100% affordable housing due to issues with letting the units and underutilised room occupancy.
- 8.19. At present the site comprises several vacant buildings which are in a state of disrepair. There is significant vegetation along the frontage largely prohibiting views into the site but where views are available into the site they adversely impact on the character of the area.
- 8.20. The scheme as originally submitted proposed several car parking courts used to provide car parking for the units fronting onto Station Road. Several units did not front the internal road in order to provide overlooking of the car parking courts. The use of the car parking courts would have caused issues relating to security and antisocial behaviour, a poor relationship between the car parking spaces serving some dwellings and a poor streetscape due to the units overlooking entrances to the parking courts. Following concerns raised by the case officer, the scheme was amended to provide additional accesses onto Station Road for shared accesses to dwellings fronting Station Road allowing car parking adjacent to the dwellings and removal of the rear car parking courts. Removal of the car parking courts has allowed all of the dwellings on the western side of the internal road to provide frontage to the road where previously there were large gaps between the dwellings dominated by hard landscaping. The additional accesses also results in some dwellings being set further back from the road frontage allowing variation to the streetscape fronting Station Road which was monotonous. Dwellings of differing brick colours have been introduced to further provide variation between the designs to avoid monotony although the specific bricks have not yet been agreed and shall be secured through a planning condition. The layout proposed an internal road to be adopted with two private driveways. Where bin storage is required for dwellings on the shared driveways, these are set back from the highway frontage to minimise their visual impact. Having regard to the density of development on the site, it is considered reasonable to remove permitted development rights for extensions, alterations to the roof and boundary treatments.
- 8.21. Adjacent to the south east corner of the application site is an area of vacant land which would be retained for employment purposes. An acoustic fence is required adjacent to the commercial premises to the south, discussed in detail in a following section, and the area of vacant land would form part of the residential streetscene.

To ensure the vacant land is not unsightly a landscaping scheme shall be secured. The area of vacant land is outside the red line of the application site but within the ownership of the applicant and therefore the landscaping scheme shall be secured through a S106 agreement. The landscaping scheme shall incorporate a basic planting scheme. As the land forms part of the employment land within the allocation and is likely to be brought forward for redevelopment substantial planting with a high expense may discourage redevelopment of the land.

8.22. The proposal would require the removal of the existing vegetation fronting Station Road but retain the vegetation fronting the countryside on the northern boundary. Some woodland planting to be east of the application site would need to be removed to facilitate the proposed attenuation pond. A tree survey and landscaping plan has been submitted. The National Forest Company has commented that the landscaping plan doesn't accurately reflect the amount of woodland to be removed to accommodate the balancing pond and cumulatively with the removal of the trees fronting Station Road will lead to a notable loss of woodland. While these all may have been assessed as category C, they form part of the National Forest where Core Strategy 21 supports the increase of woodland cover. There is some scope for planting between the houses and the balancing pond which could be specimen trees rather than further block woodland and a financial contribution is a further option which would be £5,600 to increase woodland planting off-site. Subject to a revised landscaping plan and financial contribution, the proposal would be in accordance with Policy 21 of the Core Strategy.

8.23. The proposed development would enhance the character and appearance of the area and provide a strong streetscape to the Station Road frontage and proposed internal road. The proposed development would be in accordance with Policy DM10 of the SADMP and Policies 16 and 21 of the Core Strategy.

Impact upon amenity

8.24. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties. Policy SA4 of the SADMP seeks to ensure the amenity of future occupiers of both residential and employment units would not be adversely affected in line with Policy DM10. Paragraph 17 of the NPPF seeks to ensure developments provide a good standard of amenity for all existing and future occupants of land and buildings;

8.25. Due to the siting of the application site on the eastern side of Station Road there are no directly adjoining residential properties that would be impacted by the development. There are dwellings on the western side of Station Road although these are sufficiently separated from the site to avoid adverse impacts on the occupiers.

8.26. The proposed dwellings would be served by reasonably sized gardens to provide private amenity space. The dwellings would be sufficiently separated from one another to avoid overlooking or intervisibility of windows. Four of the plots at the southern end of the site would be south facing and would face a boundary treatment across a small area of landscaping. Whilst this outlook is not favourable due to the separation from the boundary treatment, the outlook would not be impacted significantly to an extent that it could be considered there would be an overbearing impact on the occupiers of the habitable rooms. The dwellings would have a reasonable level of amenity resulting from the layout.

8.27. Adjoining the southern side of the application is a commercial site with two adjoining businesses: The land to the south comprising the commercial businesses forms part of the mixed use allocation and the employment uses are protected. Presscut Components is unrestricted in its hours and days of operation. A noise impact

assessment has been submitted with the application to demonstrate recorded noise emissions from the commercial operations and proposes mitigation to ensure the amenity of the future occupiers of the proposed dwellings. The mitigation proposed includes an acoustic fence adjacent to the commercial operations, the details of which shall be secured through a planning condition. However, a section of the acoustic fence, in order to be most effective, would need to be located outside the red line of the application site but within land in the ownership of the applicant. Where the acoustic fence is located outside the application site, the details and maintenance of the fence shall be secured through a S106 agreement. When the employment site is redeveloped including the vacant land north of the acoustic fence, the amenity of the proposed dwellings would be secured by ensuring noise emitting machinery is located on a section of the site away from the dwellings.

- 8.28. In addition to an acoustic fence, Environmental Health (Pollution) have commented that mechanical ventilation is required on the dwellings closest to the commercial premises to ensure that any noise fluctuations or extended periods of noise from operations do not impact on the amenity of the occupiers. The details of the ventilation shall be secured through a planning condition
- 8.29. It is considered that the proposed development would provide a good standard of amenity for the future occupiers and due to the proposed mitigation the proximity of residential dwellings to the commercial premises would not inhibit their operations. The proposed development is in accordance with Policies SA4 and DM10 of the SADMP and paragraph 17 of the NPPF.

Impact upon highway safety

- 8.30. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.31. This application proposes a new access onto Station Road providing an internal road within the site which is to be adopted. The access is in the same position as the previously approved application. Additionally, two accesses are proposed onto Station Road serving shared private driveways. Sufficient visibility splays can be achieved from all accesses and would not adversely impact upon highway safety. The internal road has been designed to adoptable standards and includes speed calming measures to ensure pedestrian and vehicular safety. Leicestershire County Council (Highways) has raised no objection to the proposal subject to conditions.
- 8.32. Two car parking spaces are proposed for all three bedroom properties and some two bedroom properties. Some two bedroom properties would have a single off-street car parking space. Some concern has been raised by Leicestershire County Council (Highways) over on-street car parking adjacent to junctions and the highway safety implications. However, it is considered reasonable for some two bedroom dwellings to have a single car parking space and is unlikely to result in an over proliferation on street car parking. One bedroom flats are proposed to be served by a single car parking space. It is considered that the level of car parking proposed would be sufficient to serve the occupiers of the proposed dwellings. Concern has previously been raised regarding potential car parking along the Station Road frontage. A railing is proposed along the Station Road frontage, with the exception of a gap to allow pedestrians to cross the road, to ensure occupiers do not park along Station Road causing a highway safety concern.
- 8.33. Leicestershire County Council (Highways) has requested contributions towards the improvement of two bus stops nearest to the development, a travel pack per dwelling and up to two bus passes per dwelling. These are considered to be reasonable and necessary and shall be secured through a S106 agreement.

- 8.34. Concern has been raised over speeding vehicles and illegal vehicles travelling along Station Road. It has been requested that an ANPR camera is provided to identify illegal vehicles. Illegal vehicles along Station Road are an existing issue and are not directly related to the proposed development. Therefore, it would not be CIL compliant to require the provision of an ANPR camera.
- 8.35. The proposed development would not have an adverse impact on highway safety and would provide sufficient car parking to serve the occupiers. The proposed development is in accordance with Policies DM17 and DM18 of the SADMP.

Flood risk and drainage

- 8.36. Policy DM7 of the SADMP seeks to ensure that surface water and groundwater quality are not adversely impacted by new development and that it does not exacerbate flood risks.
- 8.37. A flood risk assessment and drainage strategy has been submitted with the application which demonstrates that all surface water drainage could be adequately discharged with the use of an attenuation pond to be located to the east of the application site. Environmental Health (Drainage), Leicestershire County Council (Drainage) and Severn Trent Water have raised no objection to the development subject to the submission of a detailed drainage scheme to be secured through the imposition of a planning condition.
- 8.38. It is considered that the proposed development would not adversely impact on water quality and would not create or exacerbate flood risk. The proposed development is in accordance with Policy DM7 of the SADMP.

Ecology

- 8.39. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation.
- 8.40. An ecological Appraisal and subsequent Bat Emergence Survey have been submitted. The site is infrequently used by bats for foraging but there are no roosts on site. Additionally, no other protected species have been found to be present on the site. The hedgerow on the northern boundary of the site has ecological potential and should be retained and enhanced although it is identified as presently being species-poor. Leicestershire County Council (Ecology) has raised no objection to the application subject to the recommendations of the reports for ecological enhancements which shall be secured through the imposition of a planning condition.
- 8.41. The proposed development would not result in the loss of features of biodiversity value. The proposed development is considered to be in accordance with Policy DM6 of the SADMP.

Contamination

- 8.42. Policy DM7 of the SADMP seeks to ensure appropriate remediation of contaminated land in line with minimum standards.
- 8.43. A Ground Condition Desk Top Survey and Pre-Demolition Phase II Ground Investigation have been undertaken and submitted. The report makes numerous recommendations for further investigation of differing substances and at differing stages. Environmental Health (Pollution) has commented that the additional information could be secured through planning conditions.
- 8.44. Subject to the imposition of planning conditions, appropriate remediation of contaminated land could be secured in accordance with Policy DM7 of the SADMP.

Play and open space

- 8.45. Policy 19 of the Core Strategy and Policy DM3 of the SADMP require new residential development to contribute towards the provision and maintenance of green space and play provision.
- 8.46. The development proposes no green space or play provision on the application site and therefore contributions are sought for provision and maintenance of facilities off-site. Policy 19 identifies four categories of green space and play provision for which contributions can be sought. The following sites have been identified as falling within the categories and requiring improvement:
- Equipped children’s play space – Bagworth Community Centre Play Area
 - Casual/informal play space – Bagworth Recreation Ground
 - Outdoor sports provision – Colliery Lane Sports Ground
 - Accessible natural green space – Bagworth Heath Country Park
- 8.47. Contributions shall be sought in accordance with the below table.

	Provision per dwelling (based upon 2011 census - 2.4 people per dwelling)	Off site provision per square metre	Maintenance contribution per square metre
Equipped Children’s Play Space	3.6 m ² x 61 = 219.6	£145.08 x 219.6 = £31,859.57	£70.70 x 219.6 = £15,525.72
Casual/Informal Play Spaces	16.8 m ² x 61 = 1024.8	£6.16 x 1024.8 = £6,312.77	£5.30 x 1024.8 = £5,431.44
Outdoor Sports Provision	38.4 m ² x 61 = 2342.4	£13.76 x 2342.4 = £32,231.42	£13.20 x 2342.4 = £30,919.68
Accessibility Natural Green Space	40 m ² x 61 = 2440	£6.16 x 2440 = £15,030.40	£5.30 x 2440 = £12,932.00

- 8.48. The above contributions are considered to be CIL compliant and should be secured through a S106 agreement.
- 8.49. Planning obligations
- 8.50. Policy DM3 of the SADMP states that where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly.
- Primary education
- 8.51. The site falls within the catchment area of Nailstone Dove Bank Primary School. The School has a net capacity of 105 and 132 pupils are projected on the roll should this development proceed; a deficit of 27 pupil places, of which 12 are existing and 15 are created by this development. There is one other primary school within a two mile walking distance of the development with a surplus of 6 places.

The overall deficit including all schools within a two mile walking distance of the development is 21 pupil places.

- 8.52. The 15 places generated by this development cannot be accommodated at nearby schools and a claim for an education contribution in the primary sector sought. In order to provide the additional primary school places anticipated by the proposed development Leicestershire County Council has requested a contribution for the Primary School sector of £177,129.51. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Dove Bank Primary School or any other school within the locality of the development.

High school education

- 8.53. The site falls within the catchment area of Ibstock Community College. The College has a net capacity of 705 and 814 pupils are projected on roll should this development proceed; a deficit of 109 pupil places. A total of 162 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be deducted. This reduces the deficit at this school and creates a surplus of 53 pupil places.
- 8.54. There is one other high school within a three mile walking distance of the development: Markfield South Charnwood High School which has a deficit of 39. There is an overall surplus in this sector after including all high schools within a three mile walking distance of the development creating 14 pupil places. An education contribution has not been sought towards high school places.

Upper school education

- 8.55. The site falls within the catchment area of Coalville King Edward VII Science and Sport College. The College has a net capacity of 840 and 867 pupils are projected on roll should this development proceed; a deficit of 27 pupil places. There is one other upper school within a three mile walking distance of the development: Markfield South Charnwood High School with a deficit of 11 places.
- 8.56. In order to provide the additional upper school places anticipated by the proposed development, the Leicestershire County Council requests a contribution for the upper school sector of £75,072.60. The contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Coalville King Edward VII Science and Sport College or any other school within the locality of the development.

Post 16 education

- 8.57. The nearest school providing Post 16 education to the site is Coalville King Edward VII Science and Sport College. The College has a net capacity of 353 and 378 pupils are projected on roll should this development proceed; a deficit of 25 pupil places (of which 22 are existing and 3 are created by this development). There are no other post 16 schools within a three mile walking distance of the site.
- 8.58. In order to provide the additional post 16 school places anticipated by the proposed development, Leicestershire County Council requests a contribution for the post 16 school sector of £38,849.08. The contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Coalville King Edward VII Science and Sport College.

Special education

- 8.59. As this development is for less than 250 houses with two or bedrooms a claim for a Special School contribution is not sought.

Civic amenity

- 8.60. Leicestershire County Council considers there would be an impact on the delivery of Civic Amenity waste facilities within the local area because of a development of this scale, type and size. As such a developer contribution is required of £3,988.00.
- 8.61. The nearest Civic Amenity Site to the proposed development is located at Coalville and residents of the proposed development are likely to use this site. Each household in Leicestershire in 2012/13 delivered on average approximately 0.276 tonnes of municipal waste to a Civic Amenity Site. On this basis the proposed development of 61 units would generate over 16 tonnes of additional Civic Amenity waste at the Coalville Civic Amenity Site. The proposed development would place additional demand on the Coalville Civic Amenity Site and the request for the Civic Amenity developer contribution would meet the demands placed on the site as a result of the proposed development.

Library

- 8.62. The proposed development on Station Road, Bagworth is within 4.5km of Markfield Library on Oakfield Avenue, being the nearest local library facility which would serve the development site. Active users of Markfield Library currently borrow on average 17 items a year. The national performance indicator NI9 measures the percentage of adults who have used a public library service in the past 12 months (the latest figure is Oct 08 - Oct 09) and for Leicestershire this figure is approximately 48%.
- 8.63. Consequently the proposed development at Station Road, Bagworth is likely to generate an additional 88 plus users and would require an additional 212 items of lending stock plus reference, audio visual and homework support material to mitigate the impacts of the proposed development on the local library service. Leicestershire County Council consider the library contribution of £1,840.00 is justified

Health

- 8.64. The development is proposing 61 dwellings which based on the average household size of 2.42 per dwelling (2001 Census) could result in an increased patient population of 146. This proposed development falls within the practice boundary of Newbold Verdon Medical Practice, St Georges Close, Newbold Verdon, LE9 9PZ. The premise currently has 3 GP consulting rooms and 1 treatment room all of which are used consistently throughout the week. The practice has seen their list size grow significantly over the past 3 to 4 years. The practice therefore proposed to use any S106 Health Care contributions to refurbish and improve their premises to enable and support increased service provision for the identified population increase.
- 8.65. The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger practices. The cost per sqm has been identified by a quantity surveyor experienced in health care projects. The cost of providing additional accommodation for 44 patients and requested contribution is £18,290.88.

Viability

- 8.66. Policy DM3 of the SADMP states that where, because of the physical circumstances of the site and/or prevailing and anticipated market conditions, a developer can demonstrate that the viability of a development proposal affects the provision of affordable housing and/or infrastructure provision, the Borough Council

will balance the adverse impact of permitting the scheme on the delivery of such provision, with any appropriate evidence to support this justification.

- 8.67. A Viability Statement has been submitted by the applicants to demonstrate that the scheme is unable to provide the contributions detailed above. The development is for 100% affordable housing which is funded through a Homes and Communities Agency Affordable Housing Program grant and the remainder through financing to be paid back through the returns on rent. Due to the development being 100% affordable housing, lower than markets rents would be achieved which would not be sufficient to cover the cost of the development if the S106 contributions are sought.
- 8.68. The Viability Statement has been independently assessed by a third party instructed by the Local Planning Authority. Following discussion and negotiation with the applicant it has been agreed that the housing value was underestimated and that a small sum contribution could be paid to be deducted from the construction company's profit. It has been agreed that a sum of £82,831 shall be provided towards S106 contributions.
- 8.69. A financial contribution has been sought for the following facilities: primary education, upper school education, post 16 education, civic amenity, health, bus passes, travel packs, improvement to bus stops, and green space and play provision and for additional woodland planting off-site. Based on the justification for the differing contributions it is considered that the most important to provide through this development would be primary education. In this instance, it is recommended that the £82,831 should be spent of the provision of additional primary education facilities within either of the two schools identified within two miles of the application site.
- 8.70. The proposed development would provide a partial payment towards primary education facilities and would fail to provide the other sought infrastructure contributions. The occupants of the proposed development would be dependent on the existing infrastructure in the area surrounding Bagworth and the additional burden on the existing infrastructure must be balanced against any identified planning benefits of the scheme.
- 8.71. There are existing green and play spaces in close proximity to the application site. Whilst these are identified as requiring enhancement, lack of additional provision would not deprive the occupiers of the development access to these facilities. The development would lead to a loss of woodland cover in the National Forest and would be unable to provide off-site planting. This would be contrary to the aims of the National Forest. There would be no improvement to the nearest bus stops although these would still be able to operate and serve the future occupiers. The lack of travel packs and bus passes would not encourage sustainable modes of transport although these services would still be able for use. The development would provide a partial contribution towards primary education facilities but no contribution towards upper school education or post 16 education. However, the Local Education Authority has a statutory duty to provide school places for children and although occupants may have to travel, they would not be deprived school places. The development would not provide a contribution towards health facilities which was sought to refurbish an existing consulting room to provide a multi purpose room. The contribution is not essential for the practice to be able to accommodate the population increase.
- 8.72. The application proposes to provide 61 affordable dwellings. The provision of affordable housing should be given significant weight due to the existing provision during the development plan period and the identified requirement for affordable housing both in Bagworth and across the Borough. In this instance, it is considered that the provision of affordable housing outweighs the harm caused by the under

provision of the requested contributions. The proposed development would be in accordance with Policy DM3 of the SADMP.

Demolition and construction

- 8.73. The applicant has submitted a Demolition Method Statement to facilitate commencement of works once the application has been determined. Leicestershire County Council (Highways) has agreed the document and Environmental Health (Pollution) are yet to comment on the document. Demolition works shall be carried out in accordance with the document which shall be secured through a planning condition. If Environmental Health make any comments on the document, these shall be provided as an update to the planning committee.
- 8.74. The applicant has submitted a Construction Method Statement. Leicestershire County Council (Highways) and Environmental Health (Pollution) have not yet made comment and agreed the document. Therefore, a Construction Environmental Management Plan shall be secured through a planning condition to be agreed prior to commencement of development (excluding demolition works)
- 8.75. The applicant has submitted a Construction Surface Water Management Plan. Leicestershire County Council (Drainage) has not made comments on the document. It is proposed to condition all works be carried out in accordance with the document which shall be secured through a planning condition. If LCC (Drainage) provide comments then these will be provided through an update to the planning committee.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
(1) A public authority must, in the exercise of its functions, have due regard to the need to:
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The proposed development forms part of the allocation SA4. The application would provide the number of dwellings required by the policy whilst retaining sufficient land for employment purposes. The development would be 100% affordable housing of a social rented tenure and would provide a mix of housing types. The development would be in accordance with Policy SA4 of the SADMP and Policies 7, 10, 15 and 16 of the Core Strategy.
- 10.2. The proposed development would complement and enhance the character of the area. The development would not have an adverse impact on the amenity of surrounding residential and commercial premises and would provide a good standard of amenity for future occupiers. The proposal would not have an adverse impact on highway safety and would provide sufficient car parking provision to serve the occupiers. The development would adequately attenuate surface water

runoff and would not have an adverse impact on features of ecological value. The proposed development is considered to be in accordance with Policies DM6, DM7, DM10, DM17 and DM18 of the SADMP.

- 10.3. Contributions are sought for the following facilities: primary education, upper school education, post 16 education, travel packs, bus passes, improvement to bus stops, civic amenity, health and green space and play provision and for additional woodland planting off-site. A viability appraisal has demonstrated that only £82,831 can be provided towards these contributions which are recommended to be spent on primary education. The proposal would place a strain on existing infrastructure, would reduce woodland cover contrary to Policy 21 of the Core Strategy and would not provide green space and play provision contrary to Policy 19 of the Core Strategy. However, significant weight is given to the benefits of providing 61 affordable dwellings and therefore, on balance, the lack of contributions is considered acceptable in accordance with Policy DM3 of the SADMP.

11. Recommendation

11.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - 100% affordable housing provision
 - Primary education - £82,831.00
 - Off-site acoustic fence details, provision and maintenance
 - Off-site landscaping details, provision and maintenance
- Planning conditions outlined at the end of this report.

- 11.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

- 11.3. That the Head of Planning and Development be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

11.4. Conditions and Reasons

- 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 except in complete accordance with the details shown on the submitted plans:

70170 D00 – Site Location Plan (received on 23/06/2017)

70170 DO1 rev T – Site Layout (received on 25/09/2017)

70170 D10 rev D – House Type 1A (received on 29/08/2017)

70170 D11 rev A – House Type P113 (received on 29/08/2017)

70170 D12 rev A – House Type P131 (received on 29/08/2017)

70170 D13 rev A – House Type P133 (received on 29/08/2017)

70170 D14 rev A – House Type 3A (received on 29/08/2017)

Reason: To ensure a satisfactory impact of the development to accord with Policy DM1 of the adopted Site Allocations and Development Management Policies DPD.

- 3) Before any development commences above damp course level, 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. The

development shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

- 4) No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure appropriate remediation of contaminated land to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 5) If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure appropriate remediation of contaminated land to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 6) No development approved by this permission shall be commenced, excluding demolition, until a scheme for the monitoring of landfill gas on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any landfill gas shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site being first occupied.

Reason: To ensure appropriate remediation of contaminated land to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 7) No development shall commence, excluding demolition works, until such time as a construction traffic management plan, including details of wheel cleansing facilities, site / construction vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

- 8) The demolition of the existing buildings on the application site shall be carried out wholly in accordance with the submitted document entitled 'Demolition Method Statement' received by the Local Planning Authority on 21/09/2017.

Reason: To ensure no harm to occupiers of nearby dwellings or the environment surrounding the application site to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

- 9) The proposed development shall be carried out wholly in accordance with the submitted document entitled 'Construction Surface Water Management Plan (CSWMP) – Former Dunlop Site, Station Road, Bagworth – 61 Homes' received by the Local Planning Authority on 25/09/2017.

Reason: To ensure surface water is adequately discharged during the construction phase of the development to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 10) Notwithstanding the submitted Construction Method Statement, prior to commencement of development, excluding demolition works, a Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed Construction Environmental Management Plan shall be implemented throughout the course of the site preparation and construction phases.

Reason: To ensure no harm to occupiers of nearby dwellings or the environment surrounding the application site to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

- 11) All demolition and construction works shall be limited to the following hours:

Monday – Friday 07:30 – 18:00

Saturday – 08:00 – 13:00

No work shall be undertaken on Sundays and Bank Holidays

Reason: To ensure no harm to occupiers of nearby dwellings or the environment surrounding the application site to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

- 12) No development shall commence, excluding demolition works, until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. The surface water drainage scheme shall be implemented in accordance with the approved details prior to first occupation of any dwelling hereby permitted.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 13) No development shall commence, excluding demolition works, until such time as details in relation to the long term maintenance of the sustainable surface water drainage system within the development have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To establish a suitable maintenance regime, that may be monitored over time; that will ensure the long term performance, both in terms of flood risk and water quality, of the sustainable drainage system within the proposed development to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 14) No development shall commence, excluding demolition works, until such time as infiltration testing has been carried out to confirm (or otherwise) the suitability of the site for the use of infiltration as a drainage element, and the flood risk assessment (FRA) has been updated accordingly to reflect this in the drainage strategy.

Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- 15) No development shall commence, excluding demolition, until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have first been submitted to and approved 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 and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

- 16) Notwithstanding the details shown on the submitted Landscape Plan, drawing no. 70170 D900, no development, excluding demolition, 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:

- a) Means of enclosure
- b) Car parking layouts
- c) Other vehicle and pedestrian access and circulation areas
- d) Hard surfacing materials
- e) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
- f) Planting plans
- g) Written specifications
- h) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- i) Implementation programme

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

- 17) Prior to occupation of any dwelling hereby permitted, an acoustic fencing scheme shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include the detailed design of the fencing and a program for its maintenance. The agreed scheme shall be implemented prior to occupation of any dwelling hereby permitted.

Reason: To ensure a good standard of amenity for future occupiers of the proposed dwellings and to ensure the dwellings do not restrict operations of the adjacent commercial uses to accord with Policies SA4 and DM10 of the Site Allocations and Development Management Policies DPD.

- 18) Prior to occupation of any dwelling hereby permitted, a scheme for the installation of mechanical ventilation to plots 11-22, 52-53 and 56-61 shall be submitted to and agreed in writing by the Local Planning Authority. The mechanical ventilation shall be installed on the applicable plots in accordance with the approved details prior to first occupation of the dwellings.

Reason: To ensure a good standard of amenity for future occupiers of the proposed dwellings and to ensure the dwellings do not restrict operations of the adjacent commercial uses to accord with Policies SA4 and DM10 of the Site Allocations and Development Management Policies DPD.

- 19) No dwelling hereby permitted shall be occupied until such time as the accesses, parking, and turning arrangements shown on drawing number D01 rev T have been implemented in full and these shall be retained in perpetuity.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally, in the interests of highway safety and in accordance with Paragraphs 32 and 35 of the National Planning Policy Framework 2012.

- 20) Prior to first occupation of any dwelling hereby approved, a scheme for ecological enhancement in accordance with the recommendations of the document entitled 'Ecological Appraisal – Land off Station Road, Bagworth' received by the Local Planning Authority on 22/08/2017, shall be submitted to and agreed in writing by the Local Planning Authority. The ecological enhancements in accordance with the approved scheme shall be carried out prior to occupation of any dwelling hereby permitted.

Reason: to mitigate and enhance biodiversity in line with the recommendations of the submitted report to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

- 21) Notwithstanding the provisions of Classes A, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) the buildings hereby approved shall not be extended or altered or buildings incidental to the enjoyment of the dwellinghouse erected without the grant of planning permission for such development by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

- 22) Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no gate, wall, fence or other means of enclosure shall be erected or constructed without the grant of planning permission for such development by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

11.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.

This page is intentionally left blank

Planning Committee 10 October 2017
Report of the Head of Planning and Development

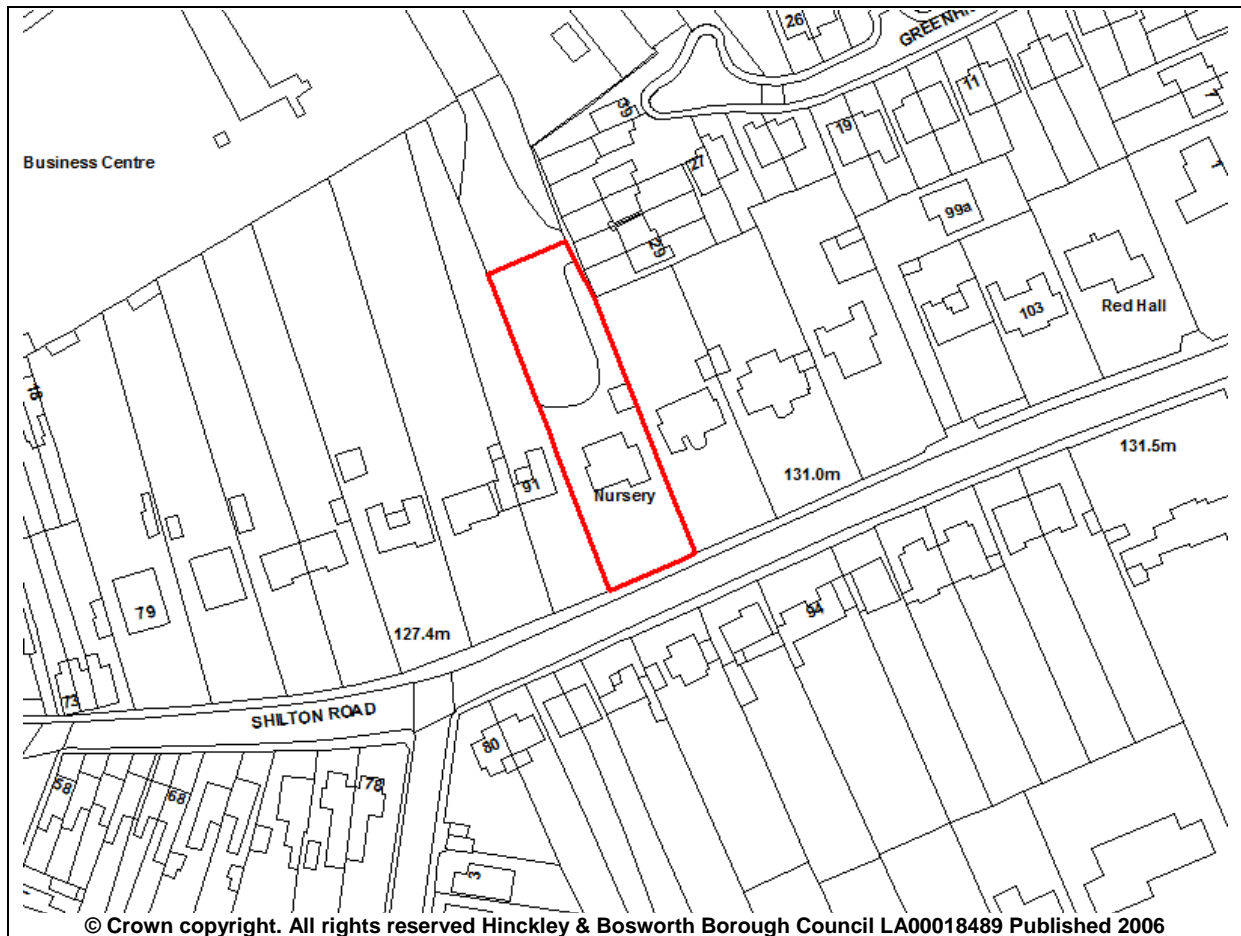
Planning Ref: 17/00606/CONDIT
Applicant: Mrs Victoria Stone
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: The Old Rectory Nursery 93 Shilton Road Barwell

Proposal: Variation of condition 3 of planning permission 15/00611/COU to increase the number of children permitted from 42 to 64



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions set out at the end of the report.

2. Planning Application Description

2.1. This application seeks to vary condition 3 of planning permission 15/00611/COU which states:

“The number of children attending the Nursery shall not exceed 42.”

- 2.2. The original application sought consent for change of use of the first floor from dwelling to nursery in conjunction with existing ground floor nursery use. The original application allowed the property to cater for 42 children (an increase of 14).
- 2.3. The reasons given for the inclusion of the condition on the 2015 approval were to prevent the use becoming a source of annoyance to nearby residents and to ensure there was no detrimental impact upon highway safety.
- 2.4. The nursery caters for a number of different age groups, ranging from babies (0-18 months), toddlers (18-30 months), pre preschool (30-36 months) and preschool (36-48 months). The current amendment proposed as part of this application is to increase the number of children permitted from 42 to 64.
- 2.5. An additional site plan and a noise management plan were received during the course of the application addressing officer concerns regarding the parking layout on the site and the amenity of neighbours.

3. Description of the Site and Surrounding Area

- 3.1. The site is within the settlement boundary of Barwell. The site is accessed from Shilton Road and currently has parking for approximately 6 vehicles. The property is a detached two storey property with a large rear grassed area. The street is mainly characterised by large detached dwellings set back into the plots with mature planting along the boundaries, however the boundaries have been eroded to provide access to the dwellings. The area is characterised by residential development.
- 3.2. The existing building has three rooms on the ground floor and three rooms on the first floor. A kitchen is located on the ground floor with a further office and a staffroom/children cooking area on the first floor.

4. Relevant Planning History

84/00612/4	Change of use from single dwelling to residential home for 9 elderly persons	Permission	21.08.1984
85/00758/4	Change of use to day nursery for 40 children	Refused	24.09.1985
85/01173/4	Change of use from residential to residential including a day nursery for 7 children and the erection of a toilet block extension	Permission	28.01.1986
86/01304/4	Increase use of existing nursery for child care from 7 to 10 children	Permission	27.01.1987
88/00526/4	Increase use of existing nursery for child care from 10 to 20 children	Permission	24.05.1988
02/01045/FUL	Erection of conservatory	Permission	25.10.2002
04/01133/COU	Change of use from nursery limited to twenty children to nursery limited to twenty eight children	Permission	10.11.2004
15/00063/COU	Change of use from first floor from dwelling use to nursery in	Withdrawn	29.04.2015

15/00611/COU	conjunction with existing ground floor nursery use. Change of use of first floor from dwelling to nursery in conjunction with existing ground floor nursery use.	Permission	25.11.2015
--------------	---	------------	------------

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Two letters of objection have been received from one address raising the following concerns:
 - 1) Highway safety
 - 2) On street parking problems
 - 3) Noise and disturbance impacts upon neighbouring properties
 - 4) There is another nursery located four properties along so there will be a cumulative noise impact with a large number of children in a residential area

6. Consultation

- 6.1. Barwell Parish Council object to the application on highway safety grounds and impacts upon neighbouring residential properties.
- 6.2. No objections from HBBC Environmental Health as a result of a submitted Noise Management Plan.
- 6.3. No objections from LCC Highways.

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 3: Development in Barwell
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues
 - Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Conditions

Assessment against strategic planning policies

- 8.2. The original scheme has been assessed as being sustainable and in accordance with strategic planning Policies DM1 of the SADMP and Policy 3 of the Core

Strategy. The proposed amendments have no impact on the acceptability of the proposal in relation to these strategic planning policies of the Development Plan. The principle of a nursery within this location is therefore considered acceptable, subject to all material considerations being satisfied.

Design and impact upon the character of the area

- 8.3. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It is contended that the development proposed by this application would meet the aims and requirements of the above for the reasons given below.
- 8.4. No changes are proposed to the existing building and as such there would be no impact upon the character of the property or the street scene. The increase of 22 children would therefore not significantly impact upon the character of the area.
- 8.5. Overall the proposal is considered to complement the character of the existing dwelling and street scene in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.6. Policy DM10 of the SADMP state that proposals should not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings including matters of lighting air quality noise vibration and visual intrusion
- 8.7. The nearest residential dwellings to the proposal are no. 91 (west) and no. 95 (east) Shilton Road.
- 8.8. Concerns have been raised in regards to the noise impacts of additional children on site to the neighbouring residents.
- 8.9. The proposal would result in more children on site and more children using the rear garden generating further noise. The use of outdoor space and access to outdoor play is also supported by the Early Years Foundation Stage.
- 8.10. Following officer concerns, an updated noise management plan has been submitted addressing the potential impact the increase in numbers could have on the surrounding properties. The applicant has stated within this document that the number of children allowed outside at any one time is limited, to ensure the noise disturbance to neighbours is limited, additionally to limit the number of accidents which may occur if they are all outside together.
- 8.11. The smaller age groups, babies and toddlers are generally only out half an hour in the morning and half an hour in the afternoon and usually only 10 at one time for the babies, and 20 for the toddlers.
- 8.12. The older age groups have free flow on the outdoors. However this means the older children are not all out at one time and flow between indoors and outdoors.
- 8.13. It is therefore considered that there would be limited noise impacts from the use of the outdoor garden as there would be limited numbers throughout the day.
- 8.14. The garden also extends approximately 45 metres in length, allowing children to play further towards the back of the garden, further away from the direct amenity space available to the neighbouring residential properties. The nursery backs on to a small industrial unit so there would be no noise impacts to the rear of the

application site. Hedging also bounds the site on both sides in addition to the existing boundary fences.

- 8.15. There is another other nursery located in close proximity to the application site only has permission for 18 children and is limited to a maximum of 12 children using the rear garden between the hours of 09:30am and 16:30 pm. As such it is considered that the cumulative impact of children numbers in the area would not detrimentally impact upon the residential amenity of the dwellings situated between the two nurseries.
- 8.16. Through discussions with Environmental Health and the submission of a noise management plan, it is considered that this noise disturbance would not be severe or detrimental to the amenity of residents. There have also been no recent noise complaints on the proposal.
- 8.17. Therefore it is not considered that by amending this condition which would increase the numbers of children at the property, the amenities of neighbouring residents would be significantly harmed so as to warrant refusal.
- 8.18. The proposal is considered to comply with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.19. Policy DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.20. Off street parking provision is provided to the front of the property and provides approximately 6 parking spaces.
- 8.21. Leicestershire County Council (Highways) initially objected to the proposal, due to the lack of parking and the potential impact for on street parking and resultant impact upon highway safety. However, following the submission of additional information and a revised layout for parking on site this objection was removed.
- 8.22. The amended parking layout provides provision for 11 spaces and 4 staff spaces. It is considered that the revised parking layout would allow vehicles to pull onto the site, park and manoeuvre without impacting upon highway safety. The applicant has confirmed it is not proposed to increase the number of staff numbers from existing, full time employees – 12 and part time employees – 4.
- 8.23. In addition, the use of alternative means of transport to the site would be encouraged. In relation to potential delays and congestion, given that the drop off and collection of the children would be a relatively quick activity, associated impacts would not be sustained and would not justify refusal of the application. Impacts experienced would be time specific and would not lead to constant congestion or parking problems, as such are not considered to be significantly harmful to lead to a detrimental impact upon highway safety. Further to this, the dropping off and picking up of children is very sporadic and differs within parents depending their own schedules. Parking is also available within the site for staff and users of the facility who wish to stay for a longer period of time.
- 8.24. The objections and concerns of neighbouring residents in respect of parking and traffic movements have been carefully considered along with the formal comments from Leicestershire County Council (Highways). Based upon this, it is considered that the proposed increase in numbers would not result in any demonstrable or

significant impacts in terms of highway safety and as such the proposal is considered to be in accordance with Policy DM17 and DM18 of the SADMP.

Conditions

- 8.25. Planning permission 15/00611/COU was subject to six conditions. Condition 1 (relating to time restriction) is no longer required as the scheme has commenced. Condition 2 (relating to the approved plans) is being amended by this application in line with the revised parking layout. Condition 3 (numbers of children permitted) is being amended as part of this permission. Condition 4 (use of the parking and turning facilities to be provided and marked out) is being amended in line with the revised parking layout. As the use has already commenced, it is considered necessary and reasonable to amend this condition for the revised parking spaces and layout to be marked out within one month of the date of this permission. Condition 5 (provision of pedestrian visibility splays) has been carried out and is being amended to ensure that the relevant splay is maintained in perpetuity. Condition 6 (provision of the one-way arrangement) is to be amended to ensure that the relevant one-way is maintained in perpetuity.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. This application seeks to vary condition 3 of planning permission reference 15/00611/COU on an existing use. It is considered that the proposal to increase the numbers of children permitted by from 42 to 64 would not detrimentally affect the amenities of neighbouring residents nor highway safety. The proposal is considered to comply with Policies DM1, DM10, DM17 and DM18 of the SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

- 11.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.
- 11.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.
- 11.3. **Conditions and Reasons**

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, Dwg No 03 - Location Plan, Dwg No 04 - Block Plan, Dwg No 02 - Proposed Floor Plans received by the local planning authority on 29 May 2015 and Dwg No 11C – Existing and Proposed Site and Parking Plan received by the local planning authority on 06 September 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1, DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

2. The number of children attending the Nursery at any one time shall not exceed 64.

Reason: To ensure that the development does not have a detrimental impact upon highway safety and existing residential amenity in accordance with Policies DM1, DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. The off-street car parking and turning facilities shown on Dwg No 11C – Existing and Proposed Site and Parking Plan received by the local planning authority on 06 September 2017 shall be surfaced and marked out within one month of the date of this permission, and shall thereafter be so maintained at all times.

Reason: To ensure the parking provision for the nursery is provided to ensure it will not have a detrimental impact upon highway safety, in accordance with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. Pedestrian visibility splays in accordance with the details shown on Dwg No 11C – Existing and Proposed Site and Parking Plan received by the local planning authority on 06 September 2017 shall be provided, maintained in perpetuity and nothing shall be erected or grown within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority.

Reason: To ensure adequate pedestrian visibility splays are provided for the site in the interests of highways safety in accordance with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

5. The proposed one-way arrangement shall be implemented and shall remain in operation in perpetuity.

Reason: To ensure adequate vehicle visibility splays are provided for the site in the interests of highways safety with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.

This page is intentionally left blank

Planning Committee 10 October 2017
Report of the Head of Planning and Development

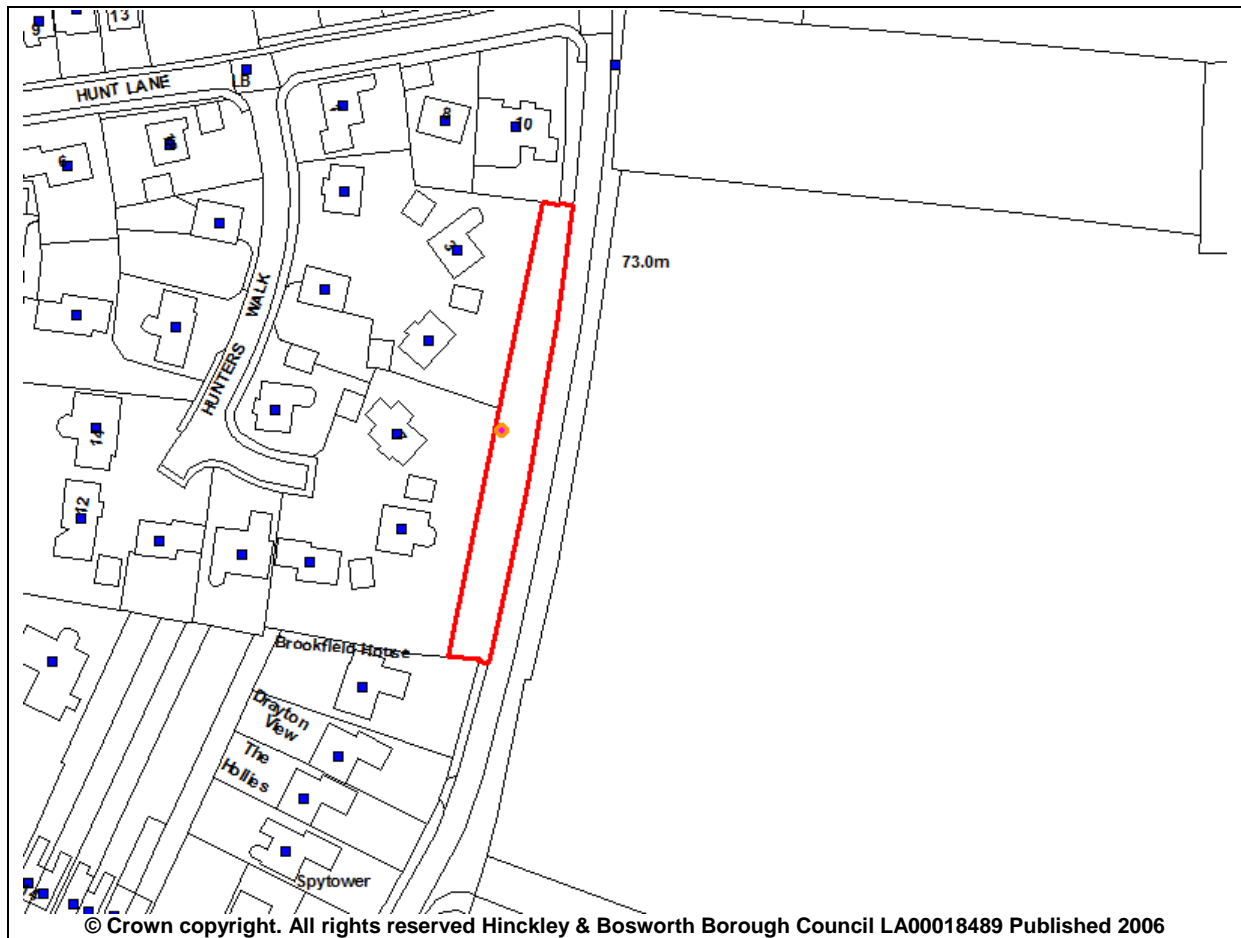
Planning Ref: 17/00776/FUL
Applicant: Dr David Hickie
Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: 7 Hunters Walk Witherley Atherstone

Proposal: Erection of timber post and wire fence adjacent to Kennel Lane
(resubmission of 17/00310/FUL)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

2. Planning Application Description

- 2.1. The application site is adjacent to Kennel Lane, a C Road which is the main access road into the rural village of Witherley from the A5 and is within the settlement boundary. The proposal is to erect a timber and post fence measuring 1.05m in height and 100m in length and the planting of native hedgerow in the ditch which is located to the rear of no's 3, 4, 7 and 8 Hunters Walk. It is proposed to erect the

fence and plant the hedgerow to act as deterrence for intruders in the Hunters Walk area of Witherley Village.

- 2.2. This application is a resubmission of a previously withdrawn application (17/00310/FUL); the key change in the application is the height of the wire and timber fence that would border the highway which at 1.05m is classed as development and requires full planning permission.

3. Description of the Site and Surrounding Area

- 3.1. The entrance to Witherley along Kennel Lane is characterised by open grass verges on either side of the highway. On the western side of the highway where the proposal would be located, this open aspect is broken only by residential brick walls at Brookfield House to the south and no. 10 Hunt Lane to the north.

- 3.2. The grass verges are currently of a width which allows it to serve as an unofficial footpath into the village and serve as a verdant and pleasant introduction to the rural village. The ditch offers a subtle contrast to the verge where scattered vegetation is in evidence; beyond the ditch, the land level rises and a thick hedgerow grows along the boundary with the residential properties of Hunters Walk.

4. Relevant Planning History

17/00310/FUL	Change of use from highway ditch and verge to private land with roadside fence and hedge.	Withdrawn	21.06.2017
--------------	---	-----------	------------

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

- 5.2. Five letters of objection have been received, the objections are summarised below:

- 1) Encroachment on public space for the benefit of private landowners as effective increase of their residential curtilage.
- 2) Harm the visual appearance of the entrance to the village
- 3) Prevent any future use as a footpath
- 4) The proposal would narrow the road area and harm highway safety
- 5) Security concerns within the immediate area have been overstated as part of the rationale for the application.
- 6) Highway concerns which have formed part of the rationale for the application are erroneous.
- 7) Concerns regarding future maintenance of ditch and resultant impact on its role as storm run soak away area..

- 5.4. Fourteen letters of support from nine different addresses which support the proposal have been received. These are summarised below:

- 1) Will provide additional security for the wider area
- 2) Will act as a traffic calming measure
- 3) Will regularise the highway boundary
- 4) Will be a visual improvement
- 5) Will support greater biodiversity

6. Consultation

- 6.1. No objections have been received from:

LCC Ecology Unit subject to there being no removal of native vegetation as part of the proposal. The applicant has since confirmed in writing that no native vegetation will be removed.

LCC Highways – The Highways authority have made the note that the applicant will be required to apply to stop up the highway under S247/S116.

6.2. One objection was received from:

Witherley Parish Council who objected on the following grounds;

- 1) Concern that this application could serve as a precedent for future loss of public amenity space
- 2) Security concerns within the immediate area have been overstated as part of the rationale for the application.
- 3) Highway concerns which have formed part of the rationale for the application are erroneous.
- 4) Concerns regarding future maintenance of ditch and resultant impact on its role as storm run soak away area.
- 5) Encroachment on public space for the benefit of private landowners

7. Policy

7.1. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

Design and impact upon the character of the area

8.2. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

8.3. The 1.05m proposed timber post and wire fence would be positioned at the top of the ditch, would be approximately 100m in length and would effectively regularise the highway boundary which currently projects forward to the north and south at Brookfield House to the south and no.10 Hunt Lane to the north. The hedgerow which would be planted within the ditch and form a second line of hedging to the rear of no's 3, 4, 7 and 8 Hunter's Walk would, following advice from LCC Ecology, consist of a native hedgerow mix with a predominance of Common Hawthorn.

8.4. The current green verge which serves the rural village of Witherley both aesthetically in that it offers a pleasant and green introduction to Witherley and practically in that it provides an access route to the village for pedestrians, would remain effectively unaffected in terms of its width. The small scale and open aspect of the proposed fencing aligned with the planting of the native hedgerow would ensure there would be no undue harm to the character of the area. It is also

considered that the planting of new hedgerow within the ditch would not act as significant change to the character of the area but rather merely replicate the previously existing situation pre-2014 when the ditch was cleared.

- 8.5. It is considered that the proposed development would complement the existing character and appearance of the surrounding built form and would be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.6. DM10 of the SADMP seeks to ensure that developments will have no significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.7. Improving the security of residents is a material planning consideration. As part of the application, it has been stated that the erection of the fencing with the associated hedgerow would serve as an additional deterrent to intruders to the rear of Hunters Walk. As part of the Design and Access statement provided by the applicants, it has been alleged that there has been an increase in criminal activity in the vicinity of Hunter's Walk since the clearance of the previous line of hedging that once occupied the ditch along Kennel Lane. This assessment has been queried by objectors and in light of the absence of robust evidence of a direct connection between crime and the removal of the hedgerow. It is considered in the absence of strong evidence to support the security risk to the properties which border the application site and the wider area, this issue is given no weight in the conclusions of this report.
- 8.8. The small scale nature of the application and the significant separation distance to the nearest neighbouring properties ensures there would be no undue impact on neighbouring residential amenity. Furthermore, as the green verge would be effectively preserved, it is considered that pedestrian access to the village via the verge would not be harmed.
- 8.9. Therefore in regard to residential amenity the proposal is considered to comply with Policy DM10 of the SADMP.

8.10. Ecology

- DM6 of the SADMP seeks to ensure that development proposals demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long term future management. The removal or damage of such features shall only be acceptable where it can be demonstrated that the proposal will result in no net loss of biodiversity and where the integrity of local ecological networks can be secured.
- 8.11. The proposal received no objection from LCC Ecology who requested a new native hedgerow to be planted and to be of the greatest value for wildlife recommended a suitable species mix. The necessity for this planting mix has been addressed as part of the application and overall it is assessed that the proposal would see a net gain in terms of biodiversity. Moreover, no existing vegetation is to be removed as part of the development which again is in line with the recommendation of LCC Ecology and DM6 of the SADMP.

Impact upon Highway Safety

- 8.12. DM17 requires, amongst other things, that proposals do not have a significant impact upon highway safety.

- 8.13. As part of the application, the argument has been made that permission for the 1.05metre high fence and hedging would serve as a traffic calming measure as it would lessen the visual expanse for drivers along Kennel Road and encourage slower driving. The underpinning of this appraisal has also been queried by objectors. LCC Highways offered no comment regarding the issue of whether the development would impact on driver behaviour and improve highway safety. Again there is an absence of robust evidence to give the Local Planning Authority confidence that the fence and hedging would impact on highway safety either in a positive or negative manner. The preservation of the verge adjacent to Kennel Road and the set back nature of the hedging would, however, mean any impact on behaviour of drivers along this stretch of highway would not be significant.
- 8.14. It is not considered that the application would cause a narrowing of the road area as the fencing and hedging would remain distinctly setback from the highway.
- 8.15. The proposal would not result in the loss of any off-street or on-street parking spaces therefore the proposal would comply with Policy DM17 and DM18 of the SADMP.

Other matters

- 8.16. The existing use of the land is classed as highway land and LCC Highways are empowered to maintain such land; a successful planning application is therefore required before a stopping up order can be issued to allow the applicants the right to maintain this site. The application is not for incorporating the land within the applicants' residential curtilage and this concern cannot inform the conclusion of this report.
- 8.17. In regards to the concern that this application may serve as a precedent for the loss of other grass verges in the borough, not only is it considered that no such loss would occur here but furthermore differing sites will be subject to individual circumstances and site contexts. Each application is determined on its individual merits and therefore approval of this application would not set a precedent.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

10.1. The proposed development would respect the character of the wider area and would not adversely affect the amenities of the occupiers of neighbouring properties or have an adverse ecological impact or impact on highway safety. The application is considered to be in accordance with Policies DM1, DM6, DM10 and DM17 of the SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

11.3. Conditions and Reasons

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 submitted application details, as follows:

- Parking Provision Plan
- Landscape Plan (V3) (Scale 1:50)

received by the Local Planning Authority on 01 August 2017

- Kennel Lane Ditch – Roadside Hedge and Fence Site Plan (1:1000)

received by the Local Planning Authority on 04 September 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. The land to which this permission relates shall not be used in connection with the residential curtilage of No's 3, 4, 7 and 8 Holliers Walk and shall not be used for the storage of general garden paraphernalia such as garden sheds, play equipment, washing lines or other similar items ancillary to the use of the dwellinghouses. This land shall remain planted and maintained at all times in accordance with the approved plans and used for no other purpose other than a native hedgerow landscaped area.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD

4. The exiting boundary treatment to the rear gardens of No's 3, 4, 7 and 8 Holliers Walk shall not be removed, unless replaced by a boundary of a similar height and appearance. The boundary shall remain in place at all times and not be removed to extend the residential curtilages into the land which is the subject of this planning permission.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD

11.4. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The Highways authority reminds the applicants that they will be required to apply to stop up the highway under S247/S116 before undertaking development.

This page is intentionally left blank

Planning Committee 10 October 2017
Report of the Head of Planning and Development

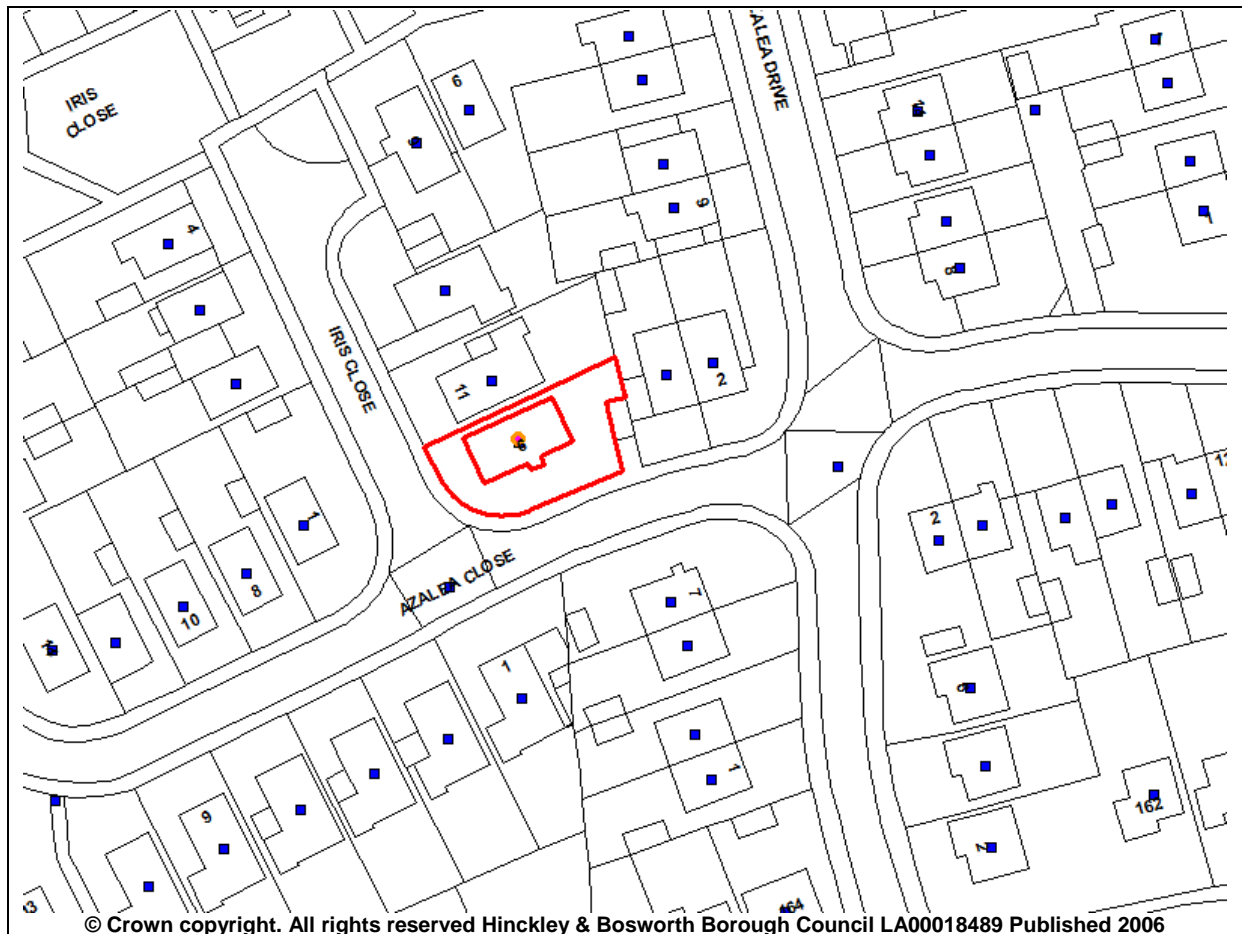
Planning Ref: 17/00690/HOU
Applicant: Mr Clive Hill
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 6 Azalea Close Burbage Hinckley

Proposal: Erection of fence (retrospective)



1. Recommendations

1.1. **Refuse planning permission** for the reasons set out at the end of this report.

2. Planning Application Description

2.1. This application seeks retrospective planning permission for the erection of a 1.8 metre high fence which comprises feathered fencing panels and gravel boarding. The fence is located to the front of a highway at 6 Azalea Close, Burbage and abuts the back of the pavement along Iris Close.

3. Description of the Site and Surrounding Area

3.1. 6 Azalea Close is a detached bungalow located to the immediate north east of the junction of Azalea Close and Iris Close within the settlement boundary of Burbage. The surrounding area mainly comprises bungalows along Iris Close and two storey detached dwellings along Azalea Close.

3.2. Both Azalea Close and Iris Close are predominantly open in character; with green open front gardens with some low level boundary hedges.

4. Relevant Planning History

15/00534/HOU	Front and side extension	Permission	07.07.2015
15/01289/NOMAT	Non material amendment to planning permission 15/00534/HOU to add brick pillar to porch and alter siting of windows	Permission	18.01.2016

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

5.2. A site notice was also posted within the vicinity of the site.

5.3. There have been five neighbour representations; four of which object to the development and one which neither supports nor objects to the development. The objections are summarised below;

- Out of character with the area
- Highway danger
- Breach of original planning application
- Set a precedence for further fences to be built
- Potential overshadowing and blocking of daylight

6. Consultation

6.1. Burbage Parish Council objected to the development stating that the fence design, height and appearance is detrimental to the street scene and character of the area.

6.2. LCC Highways - refer to Standing Advice 2011.

7. Policy

7.1. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

Assessment against strategic planning policies

- 8.2. Policy DM1 of the adopted Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise. The site is located within the settlement boundary of Burbage as defined by the SADMP where there is a presumption in favour of sustainable development. This proposal seeks retrospective consent for a boundary fence, which is considered to be acceptable in principle; subject to other material planning considerations being assessed.

Design and impact upon the character of the area

- 8.3. Policy DM10 of the SADMP requires new extensions to enhance or complement the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.4. Both Azalea Close and Iris Close are predominantly open in character; with green open front gardens with some low level boundary hedges. The fencing as currently erected extends out approximately 6.6 metres from the western elevation of the property; abutting the back of the footpath along Chestnut Walk and runs for 7.4 metres; replacing a 0.7 metre high box hedge which previously contributed to the open and green character of the area. The fencing is considered to be unacceptable along the street frontage on this prominent corner as it encloses a previously open area and is out of keeping with the open and green character of the area.
- 8.5. Further to this, the materials from which the fencing has been constructed are inconsistent with other boundary treatments along Iris Close and Azalea Close. The use of concrete gravel boards and posts is common to rear gardens ; the use of low quality materials such as these along the street frontage is considered to be detrimental to its appearance and character.
- 8.6. Whilst there is an existing boundary fence of a similar height and design to that proposed on the corner of Azalea Close and 7 Azalea Drive; the fence in question was granted planning permission in 1984 and is set back approximately a metre from the back of the highway; retaining a strip of grass verge which lessens the impact.
- 8.7. There is also a 1.8 metre high boundary fence enclosing the rear garden of 11 Iris Close, this does not have the benefit of planning permission; however due to the length of time that the fence has been in situ it is immune from enforcement action. In addition, this fence is again set back from the boundary with the highway by approximately two metres and has planting to the front to soften the impact.
- 8.8. In addition; there is already a 1.8 metre high fence adjacent to a highway along Azalea Close belonging to the application site property which also does not have the benefit of planning permission. However this fence is also immune to enforcement action due to the length of time that the fence has been in place.

- 8.9. Every application has to be assessed on its own merit and whilst there a number of examples in the vicinity these do not result in changing the open character of frontages in the area furthermore none of the other examples have been granted planning permission since the SADMP was adopted and against which this application must be assessed.
- 8.10. It is therefore considered that the siting, design, height and appearance of the fencing is detrimental to the visual appearance and character of the area and is therefore contrary to Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.12. A neighbour raised an objection in relation to the fence potentially overshadowing and blocking daylight to 4 Azalea Close. As the property is situated on the corner of Azalea Close and Iris close there are two neighbouring properties with which it shares a boundary. No. 4 Azalea Close is located to the East and No 11 Iris Close to the North. Due to the location of the fencing and height of the fence, there would be no adverse impacts upon No. 4 Azalea Close in terms of overbearing and overshadowing upon the residential amenity and the proposal would be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.13. Policy DM17 states that developments will be supported where they demonstrate that there are no significant adverse impacts upon highway safety. In this case the fence extends approximately 7.4 metres alongside the western side elevation of the property and adjoins the principal elevation.
- 8.14. LCC Standing Advice provides that visibility splays in a 30mph speed limit should measure 2.4m by 43m which would be possible in both east and west directions as the fence is set back from the junction of Azalea Close and Iris Close.
- 8.15. It is considered therefore that the proposed development would not have a significant adverse impact on highway safety and is in accordance with Policy DM17 of the SADMP.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

9.3. There are no known equality implications arising directly from this development.

10. Conclusion

10.1. By virtue of its siting; height and design the fencing has a detrimental impact upon the visual appearance and character of the street scene at this prominent corner location. The fencing is considered to be contrary to Policy DM10 of the Site Allocation and Development Management Policies DPD. Therefore, the application is recommended for refusal.

11. Recommendation

11.1. **Refuse planning permission** subject to the reasons at the end of this report.

11.2. Conditions and Reasons / Reasons

1. By virtue of its siting; height and design; the fencing has a detrimental impact upon the visual appearance and open character of the street scene at this prominent corner location. The fence is therefore contrary to Policy DM10 of the Site Allocation and Development Management Policies DPD.

11.3. Notes to Applicant

1. This application has been determined having regard to the following documents and plans submitted with the application on the site and consultation responses received during the course of the application:- Planning Application Form, Site Location Plan (received on the 18 July 2017) and Boundary Fence Plan (received on the 13 July 2017).

This page is intentionally left blank

Planning Committee 10 October 2017
Report of the Head of Planning and Development

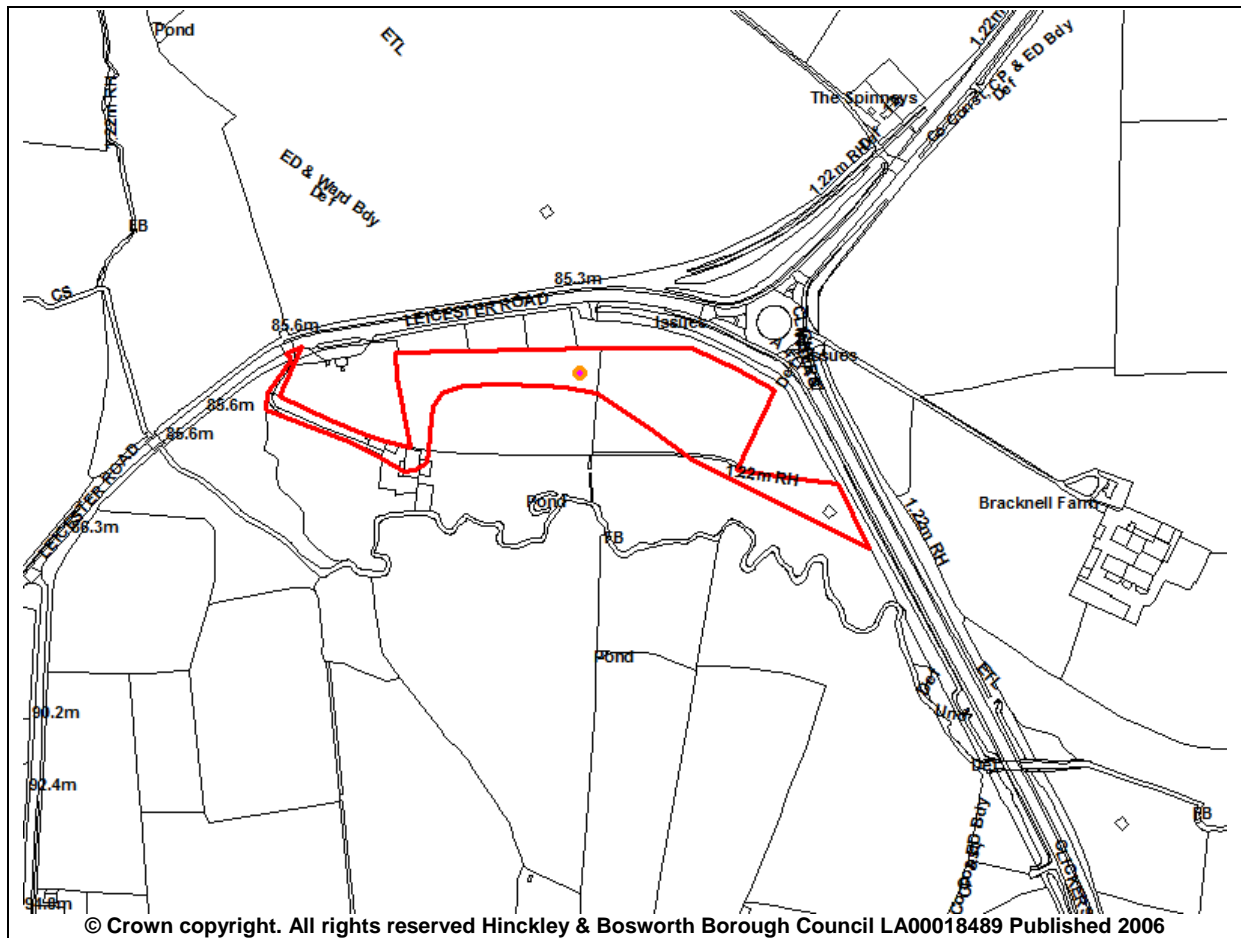
Planning Ref: 17/00734/OUT
Applicant: Mr Maurice Black
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land Adjacent To Dalebrook Farm Leicester Road Earl Shilton

Proposal: Residential development up to 49 dwellings (Outline - all matters reserved)



1. Recommendations

1.1. Refuse planning permission subject to:

- The reasons at the end of this report.

2. Planning Application Description

- 2.1. The application seeks planning permission with all matters reserved for the erection of residential development for up to 49 dwellings.
- 2.2. Whilst all matters are reserved an indicative site plan has been provided which shows how the access will utilise the existing access off Leicester Road and where dwellings can be provided on site.

- 2.3. The design and access statement indicates the scale of the proposed dwelling houses is to be no larger than;
- Width 4.5-7.5 metres
 - Depth 7.5 -12 metres
 - Ridge height 7.5 – 10 metres
- 2.4. All other details such as material, landscaping, internal road layout will be determined at reserved matters stage.

3. Description of the Site and Surrounding Area

- 3.1. The application site, known locally as Dalebrook Farm, is located on the south side of Leicester Road close to the roundabout junction with Clickers Way (A47). The site is located to the north of the settlement boundary of Earl Shilton and is approximately 5.65 acres in size. The site is in open countryside in a highly prominent location.
- 3.2. To the west of the site is a detached dwelling which was formerly a petrol filling station with open fields to the north, south and west. A bridleway (Ref. T86) sits opposite the site access.
- 3.3. Owing to the site being lower in ground level than the surrounding roads and immature landscaping to the boundary, the site is in a prominent and open location. There are views directly into the site from the roundabout and from Leicester Road and Clickers Way. Clickers Way is a relatively new road therefore planting on the edges of the roundabout is still in its infancy. This lack of mature boundary treatment provides for views directly into the site. The land falls quite significantly to the south towards Thurlaston Brook.
- 3.4. The site access partially falls within Flood Zones 2 and 3 of Thurlaston Brook that runs east to west to the south of the application site. Flood zones 2 and 3 are higher risk areas for flooding.
- 3.5. Access to the site is currently off Leicester Road. The current use of the site is for a gypsy and traveller site for up to 20 pitches, although at the time of the site visit only 2 caravans were noted on site.

4. Relevant Planning History

94/00696/GDO	AGRICULTURAL STORAGE BUILDING	GDO	23.09.1994
08/00004/FUL	EXTENSION AND ALTERATION TO BUNGALOW	WDN	22.02.2008
11/00158/COU	CHANGE OF USE OF LAND TO GYPSY SITE FOR FOUR CARAVANS	WDN	04.05.2011
13/00395/COU	Change of use to a 10 pitch caravan site and part demolition of buildings	PER	10.07.13
The application site for this proposal sits to the west of the current application site and utilises the same access from Leicester Road.			
	Erection of agricultural	GDO	06.10.2015

15/00959/GDO	building		
15/01089/COU	Change of use from agriculture to a ten pitch gypsy/traveller site with associated infrastructure and landscaping	PER	09.02.2016

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

5.2. Twelve letters of objection has been received from five different address; the issues raised are summarised below:

- 1) Issue has already been settled and the resolution of 40 more houses was the outcome of meeting
- 2) No infrastructure to support scheme
- 3) Water may possibly be susceptible to contamination
- 4) Still believe that site is unsuitable due to regular flooding
- 5) When moved in 7 years previous they were promised its would be rural countryside
- 6) Detract from the natural beauty of the area
- 7) More suitable locations for mobile and static homes
- 8) As the crime rate has increased so has the number of gypsy and traveller sites
- 9) Concerned about the road safety issues where would the entrance be
- 10) Site does not follow regulations already laid down
- 11) Site will not be policed
- 12) Fly tipping in the area will escalate
- 13) Council will not be able to over see the planning
- 14) No provision made for the Public Footpath T86

Thirty three letters of support have been received from 33 different addresses; the issues raised are summarised below;

- 1) The site will look tidier as a housing site
- 2) Better use of the land
- 3) There is a need for housing in the village

6. Consultation

6.1. Leicestershire County Council (Highways) has stated that there is insufficient evidence to make a full reasoned decision by the highway authority.

6.2. Comment received from:

- HBBC Environmental Services (Drainage) agrees with LCC drainage(see 6.4 below)

- HBBC affordable housing – comments on desired tenure split.

6.3. No objections received from:

- HBBC Environmental Services (Pollution) conditions relating to noise survey imported material.
- HBBC Waste Services – condition relating to bin storage/ waste collection points.
- LCC Archaeology – condition relating to written scheme of investigation
- NHS West Leicestershire CCG

6.4. Objections received from:

- Environmental Agency – insufficient information
- LCC Public Rights Of Way – insufficient information
- National Grid (holding objection) – insufficient information overhead line easement across site.
- LCC Drainage – insufficient information

7. Policy

7.1. Core Strategy (2009)

- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Ecological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Established principle of residential development
- Impact on the character of the area
- Impact upon highway safety and public rights of way
- Drainage and flood risk
- Ecology
- Archaeology
- Planning obligations

Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires that planning applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.3. Paragraph 12 of the NPPF states that the development plan is the starting point for decision making and that proposed development which conflicts should be refused unless other material considerations indicate otherwise. Paragraph 13 confirms that the NPPF constitutes guidance and is a material consideration in determining planning applications.
- 8.4. The development plan in this instance consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document. These adopted documents contain relevant policies in relation to the borough.
- 8.5. From the most up to date figures available, as at 1 April 2017 the authority is able to demonstrate a 5.74 year housing land supply of deliverable sites within the borough and therefore the relevant policies for the supply of housing within the development plan (Core Strategy and SADMP) can be considered up-to-date in accordance with paragraph 49 of the NPPF.
- 8.6. The adopted Core Strategy (2009) identified and provides allocations for housing and other development in a hierarchy of settlements within the borough. The application site is outside of any defined settlement boundary and is within highly visible and open countryside. The site lies outside of the settlement boundary of Earl Shilton by 0.5 miles as defined by the SADMP. It is 1.1km to the centre of Earl Shilton
- 8.7. Policy DM4: safeguarding the Countryside and Settlement is the most relevant policy. It seeks to protect its intrinsic value, beauty, open character and landscape character; the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - c) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - d) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- and:
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and

- ii) It does not undermine the physical and perceived separation and open character between settlements; and
- iii) It does not create or exacerbate ribbon development;
- iv) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
- v) If within the National Forest, it contributes to the delivery of the National forest Strategy in line with Core Strategy Policy 21

8.8. The proposal for residential development in this location is not a form of development supported by DM4 and it is considered the scheme would have significant adverse impact on the open character of the site. The scheme would be in clear conflict with the development plan policy in this area. In the absence of any special circumstances to justify residential development in this location it is considered the development of this site for residential purposes is unacceptable. The development is therefore contrary to Policy DM4 of the SADMP.

Established principle of residential development

- 8.9. The current use of the site is for a gypsy and traveller site which was approved under planning permission (refs: 13/00395/COU & 15/01089/COU) for the change of use - Change of use from agriculture to a ten pitch gypsy/traveller site with associated infrastructure and landscaping.
- 8.10. The applicant has asserted the granting of the above permission has now established a principle of residential development on the site. Owing to this established use, the current proposal for residential development, (which is outside of the settlement boundary and contrary to current local plan policy), should be approved.
- 8.11. It is considered a gypsy/traveller site is a distinctly different form of development to that of purpose-built residential development. The appearance, temporary nature of the caravans, general comings and goings and nature of a gypsy/ traveller site cannot be considered an established form of residential development which is comparable to that of a purpose built planned and permanent form of residential development. This view is further supported by the Use Classes Order, which places a gypsy/traveller site in a completely different use class (Sui Generis) to that of residential development (use class C3). The result of this distinction means the site does not benefit from an established residential use class.
- 8.12. Furthermore, the assessment which was been undertaken in the previous approval for the gypsy and traveller use, was against specific policies relating to gypsy and traveller use, not residential development, owing to the temporary nature of 'pitches' as opposed to 'dwellings' and the requirement for a provision within the local plan for traveller pitches.

Design and impact upon the character of the area

- 8.13. Policy DM4 of the adopted SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.14. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area.

- 8.15. With regards to the existing use, whilst it is acknowledged there is an impact on the character and appearance of the open countryside as a result of the approval for gypsy/traveller site, the reason for granting of planning permission was clearly justified and the planning balance was clearly weighed. It was considered very special circumstances were demonstrated to mitigate the harm to the character and appearance of the countryside. The previous permission considered the need for additional pitches within the borough at that time. It was considered the site would contribute significantly to meeting the borough's future allocation for gypsy and traveller sites. The planning balance weighed in favour of the provision for traveller pitches. The impact on the countryside was considered and mitigation measures were approved in the form of landscaping in order to offset the impact from the caravan site.
- 8.16. It is considered the development of the site for caravan pitches and permanent brick built dwelling houses are two very distinct forms of development. Owing to the modest scale of caravans it is considered the gypsy use of the site will have a less urbanising impact on the open character of the countryside than that of 49 two storey residential dwellings and associated infrastructure.
- 8.17. The current proposal for 49 residential dwellings, will be clearly visible from all aspects of the site and would introduce an urbanising form to this area of the countryside. The settlement boundary is 0.5 miles away, therefore the development would not be read against the existing settlement boundary and would be clearly independent and separate to Earl Shilton. Owing to the considerable impact of the built form on the intrinsic open nature of the countryside in this location, it is considered the development is wholly inappropriate in this location and contrary to local plan policy DM4 of the SADMP.
- 8.18. It is considered that the proposed development would not complement the existing surrounding countryside location and the intrusion into the countryside would adversely impact on the rural character of the countryside setting. The proposed development would be contrary to Policies DM4 and DM10 of the SADMP.

Impact upon highway safety and public rights of way

- 8.19. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision
- 8.20. The Local Highways Authority considers the proposal for 49 residential dwellings on this site differs considerably in so far as the volume of traffic movements that could be expected to use the access. Whilst the LHA did not object to the previous use, given the distinct difference between the two uses, it considers additional information is required in order to assess the impact of the residential development on the wider highways network. The LHA has stated it is unable to provide an 'in principle' response to the present, all matters reserved application as it does not provide sufficient details of the access proposals. The agent has contended the residential development will actually result in a reduced number of trips to and from the site than the existing use would create (20 pitches). However no further evidence has been provided to demonstrate this assertion, therefore no weight has been given this argument.
- 8.21. In the absence of sufficient information to assess the impact of the development on the highway network the application is contrary to Policy DM17 of the SADMP.
- 8.22. Public Footpath T86 runs through the proposed development site. The footpath is not depicted on the plans or discussed in the documents submitted with the application. It is accepted the layout is only indicative, however some it would be expected the Public Right of Way would be addressed within the application documentation. If members were minded to approve the proposal a detailed condition would be required ensuring details of

the footpath were submitted prior to the commencement of development to ensure the footpath is made available for public use at all times.

Drainage

- 8.23. The National Planning and Policy Framework (Para 109) states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.
- 8.24. Policy DM7 of the SADMP seeks to ensure that surface water and groundwater quality are not adversely impacted by new development and that it does not exacerbate flood risks.
- 8.25. The proposed residential development lies within Flood zone 1 (low probability of flooding) however the access road lies partly within flood zones, 1 (low risk), Flood Zone 2 (medium probability) and Flood zone 3 (high probability).
- 8.26. The FRA has identified a risk of flooding for some parts of the site. The flood depth along the access road in the south western part of the site could be potentially up to 600mm. It has also been highlighted some plots in the western, eastern and north eastern edge of the residential development part of the site could be flooded to a depth of 150mm to 300mm. Flood mitigation methods have been outlined in the FRA however comments are still awaited from the Environment Agency and Local Flood Risk Authority (LCC).

Ecology

- 8.27. Policy DM6 of the adopted SADMP (Enhancement of Biodiversity and Geological Conservation) requires development proposals to demonstrate how they conserve or enhance features of nature conservation value. On site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long term.
- 8.28. No information has been submitted in regards to ecological issues as part of this application. Comments are still awaited from LCC ecology officers and will be reported in the late representations document at planning committee.

Archaeology

- 8.29. Policies DM11 and DM13 of the adopted SADMP and Section 12 of the NPPF would be relevant to the consideration of any application on the site. These policies seek to protect, conserve and enhance the historic environment including archaeology.
- 8.30. LCC archaeology officers have advised the site lies within an area of archaeological interest therefore it is advised an initial phase of exploratory trial trenching, with a further phase of mitigation to be informed by the trial trenching should be undertaken. These details could be secured by condition.
- 8.31. No objections have been received from LCC Archaeology officers

Planning obligations

- 8.32. Policy DM3 of the SADMP seeks to ensure that where development creates a need for additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism. The planning practice guidance states that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. The development relates to 49 dwellings and therefore the following contributions in accordance with policies in the Development Plan are sought.

- Affordable housing

8.33. Policy 15 of the Core Strategy expects a proportion of affordable housing to be provided on eligible sites. The starting point for the level and target for affordable housing in rural areas is 40% on sites of 4 dwellings or more.

8.34. Following discussions with the Housing Strategy officer it is considered the site is within the rural area of the borough and therefore the policy requirement is for 40% on site affordable housing. Of these dwellings 75% should be for affordable rented housing and 25% for intermediate tenure. This provision should be secured via S106 obligations.

8.35. To date, no heads of terms have been submitted with the application.

- Education

8.36. Primary contribution £0.00: The site falls within the catchment area of Weaver's Close C of E Primary School. The School has a net capacity of 210 and 296 pupils are projected on the roll should this development proceed; a deficit of 86 pupil places. A total of 47 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be deducted. This reduces the total deficit for this school to 39 pupil places (of which 27 are existing and 12 are created by this development).

8.37. There is 1 other primary school within a two mile walking distance of the development. Townlands C of E Primary School Surplus 39 (no S106 funded places)

8.38. There is an overall deficit/surplus in this sector after including all primary schools within a two mile walking distance of the development of 0 pupil places. An education contribution will therefore not be requested for this sector.

8.39. Secondary school contributions - £177,557.63.

8.40. The site falls within the catchment area of Heath Lane Academy. The Academy has a net capacity of 784 and 1271 pupils are projected on roll should this development proceed; a deficit of 487 pupil places after taking into account the 8 pupils generated by this development. A total of 455 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be deducted. This reduces the total deficit for this school to 32 pupil places (of which 22 are existing and 10 are created by this development).

8.41. There are no other 11-18 schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified.

8.42. In order to provide the additional 11-18 school places anticipated by the proposed development, the County Council requests a contribution for the 11-18 school sector of £177,557.63. Based on the table above, this is calculated the number of deficit places created by the development (9.8) multiplied by the DFE cost multiplier in the table above (£18,118.13) which equals £177,557.63.

8.43. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Heath Lane Academy or any other school within the locality of the development.

8.44. The contribution would be spent within 5 years of receipt of final payment.

- Civic amenities

- 8.45. The County Council has reviewed the proposed development and consider there would be an impact on the delivery of Civic Amenity waste facilities within the local area because of a development of this scale, type and size. As such a developer contribution is required of £2427.0 (rounded up to the nearest pound).
- 8.46. The contribution is required in light of the proposed development and was determined by assessing which civic amenity site the residents of the new development are likely to use and the likely demand and pressure a development of this scale and size will have on the existing local Civic Amenity facilities. The increased need would not exist but for the proposed development.
- 8.47. The nearest Civic Amenity Site to the proposed development is located at Barwell and residents of the proposed development are likely to use this site. The calculation was determined by a contribution calculated on 49 units multiplied by the current rate for the Barwell Civic Amenity Site of £49.53 (subject to Indexation and reviewed on at least an annual basis) per dwelling/unit = £2427.0 (rounded up to the nearest pound).
- 8.48. This would be used to mitigate the impacts arising from the increased use of the Civic Amenity Site associated with the new development (In 2012/13 (latest figures available) the Civic Amenity Site at Barwell accepted approximately 7,874 tonnes per annum) for example by the acquisition of additional containers or the management of traffic into and out of the civic amenity site to ensure that traffic on adjoining roads are not adversely affected by vehicles queuing to get into and out of the Civic Amenity Site.
- 8.49. Each household in Leicestershire in 2012/13 delivered on average approximately 0.276 tonnes of municipal waste to a Civic Amenity Site. On this basis the proposed development of 49 dwellings would generate over 13 tonnes of additional Civic Amenity waste at the Barwell Civic Amenity Site. The proposed development would place additional demand on the Barwell Civic Amenity Site and the request for the Civic Amenity developer contribution would meet the demands placed on the site as a result of the proposed development

- Library facilities contribution - £1,480

- 8.50. The library facilities contribution is outlined in the Leicestershire Planning Obligation Policy (adopted 3rd December 2014). The County Council consider the proposed development is of a scale and size which would have an impact on the delivery of library facilities within the local area.
- 8.51. The proposed development on Leicester Road, Earl Shilton is within 1.6km of Earl Shilton Library on Wood St being the nearest local library facility which would serve the development site. The library facilities contribution would be £1,480 (rounded to the nearest £10).
- 8.52. It will impact on local library services in respect of additional pressures on the availability of local library facilities. The contribution is sought for research and study materials e.g. books, etc. for loan and reference use to account for additional use from the proposed development. It will be placed under project no. EAR003, currently one other obligation under EAR003 (subject to change due to future priorities of the library service).
- 8.53. The Leicestershire Small Area Population and Household Estimates 2001-2004 gives the settlement population for Earl Shilton library at approximately 9,250 people. The library has an active borrower base of 2,255 people. However post code analysis demonstrates

that Earl Shilton Library attracts usage from a much wider catchment of 11,526 people through additional borrowers who live outside the settlement area but come into Barwell for work, shopping or leisure reasons.

- 8.54. Active users of Earl Shilton Library currently borrow on average 17 items a year. The national performance indicator NI9 measures the percentage of adults who have used a public library service in the past 12 months (the latest figure is Oct 08 - Oct 09) and for Leicestershire this figure is approximately 48%. This figure would be higher if children were factored into the equation.
- 8.55. Consequently the proposed development at Leicester Road, Earl Shilton is likely to generate an additional 71 plus users and would require an additional 170 items of lending stock plus reference, audio visual and homework support material to mitigate the impacts of the proposed development on the local library service.
- 8.56. The County Council consider the library contribution is justified and is necessary to make the development acceptable in planning terms in accordance with the relevant national and local policies and the additional demands that would be placed on this key infrastructure as a result of the proposed development. The contribution requirement is directly related to the development because the contribution is to be used for the purpose of providing the additional capacity at the nearest library facility to the proposed development which is at Earl Shilton.
- 8.57. It is considered fair and reasonable in scale and kind to the proposed scale of development and is in accordance with the thresholds identified in the adopted policies and to meet the additional demands on the library facilities at Earl Shilton which would arise due to this proposed development
- NHS contributions
- 8.58. The Heath Lane Surgery premises are currently working to full capacity and has seen significant list size growth in recent years due to other developments. The CCG and NHS England are working closely with the practices on future resilience planning and are considering proposals for extending the premises using other sources of funding available to the surgery at this time. The surgery would therefore be seeking a S106 health care contribution from this new development to facilitate additional equipment to support the additional clinical space and thus ensure services to patients are improved and increased.
- 8.59. Contribution to Heath lane surgery for expected additional 118 patients - £10,79.33.
- Green space and play provision
- 8.60. Policy 19 of the Core Strategy requires new residential development to contribute towards the provision and maintenance of public play and open space facilities where there is an existing deficiency. There is an identified deficiency in quality of equipped children's play space, casual/informal play space and outdoor sports provision at Witherley Memorial Playing Field which is within a reasonable distance of the site. Therefore, the following contributions are sought:
- Equipped Children's Play Space £25,592.11 (provision) & £12,471.48 (maintenance)
 - Casual/Informal Play Space - £5,070.91 (provision) & £4,362.96 (maintenance)
 - Outdoor Sports Provision – 25,890.82 (provision) & £24,837.12 (maintenance)
- Civic amenity

- 8.61. The County Council has reviewed the proposed development and consider there would be an impact on the delivery of Civic Amenity waste facilities within the local area because of a development of this scale, type and size. As such a developer contribution is required of £2427.00
- 8.62. The above contributions are considered to be CIL compliant and should be secured through a S106 agreement.

9. Equality Implications

- 9.1. Where No Known Implications Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.
- 9.4. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

10. Conclusion

- 10.1. The application site is outside the settlement boundary of Earl Shilton and within the countryside. The proposed development would be contrary to the spatial distribution for growth as set out in the Development Plan and would be contrary to Policy DM4 of the SADMP.
- 10.2. By virtue of the location, layout and scale, the proposed development would not complement the existing surrounding built form and would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the SADMP.
- 10.3. The authority is able to demonstrate a five year supply of deliverable housing sites. The proposal is outside the settlement boundary where there is limited access to services and facilities and where there is no justified additional housing need. The proposal for residential development on the site would be in conflict with adopted strategic planning policies within the development plan for the area and therefore for the reasons given above, the application should be refused.

11. Recommendation

- 11.1. **Refuse planning permission** subject to:
- The reasons at the end of this report.

11.2. **Reasons**

1. The proposal would result in residential development in the designated countryside outside the settlement boundary of Earl Shilton. The proposal would fail to complement or enhance the intrinsic value, beauty, undeveloped rural character of the countryside and the rural setting. The proposal is therefore contrary Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).
2. Insufficient information has been submitted to enable the impact of the development on the road network to be assessed. In the absence of such information the application is contrary to Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

11.3. **Notes to Applicant**

1. This application has been determined based on the submitted: Proposed site layout Drg No. PL01; Site location plan; Design and access statement, Flood risk assessment;

This page is intentionally left blank



Hinckley & Bosworth
Borough Council

A Borough to be proud of

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

PLANNING COMMITTEE

10 OCTOBER 2017

WARDS AFFECTED: All Wards

Planning Enforcement Update

Report of Head of Planning and Development

1. PURPOSE OF REPORT

- 1.1 To provide an update to Members on the number of active and closed planning enforcement cases within the borough.
- 1.2 To provide an update on the current workload and performance of the planning enforcement service.

2. RECOMMENDATION

- 2.1 That the report be noted.

3. PLANNING ENFORCEMENT CASE UPDATE

3.1 Good Friday Caravan Site

On 22 June 2017 the council attended Leicester County Court and obtained an interim injunction in respect of the Good Friday Caravan Site. The injunction (pitches 3, 4, 5, 7 and 8), forbidding new residents/caravans/motor vehicles from occupying the pitches which were not part of the appeal proceedings. At the time that the proceedings were first issued, the appeal site pitches were not included because the planning appeal decision was still pending. Following dismissal of the appeal; the council will make an application to the court to include the appeal site pitches into the current proceedings.

The interim injunction is only a temporary measure; it will stay in force until the date of a trial at which the council will seek a final injunction which would prohibit residential occupation of the entire site. The court has not yet listed when trial will be but we expect it to be listed for September /October. We have no influence over when a matter is listed for trial; ultimately it is down to court capacity and judge

availability. Assuming we are successful at trial, and are awarded a final injunction order on the terms sought, the judge will set a date by which the Good Friday residents would have to vacate by. This date is set by the judge and is discretionary.

3.2 Land North West of Cold Comfort Farm, Rogues Lane, Hinckley

An application to vary a condition of the original temporary planning permission to allow for the siting of a further mobile home on site was recently refused. It was considered that the addition of a third static caravan would cause harm to the character and appearance of the open countryside. Consideration was given to the previous appeal decision and the personal circumstances of those living on the site however no justification for this additional caravan over and above the existing facilities on site was provided to outweigh the harm to the countryside.

3.3 Newton Linford Lane, Groby (Known as Klondyke)

An Enforcement Notice has been served in relation to the unauthorised change of use of part of the site from allotment garden to use for vehicle maintenance and storage. The appellants have a month in which to lodge an appeal; the Notice will take effect on the 5th November.

3.4 19 Sycamore Drive, Groby

A second enforcement notice which required the removal of temporary fencing erected behind the permanent one metre high fencing has not been complied with within the required time scales. As a result; the Council are now taking prosecution action against the owner for failing to comply with the notice.

3.5 Dalebrook Farm, Earl Shilton

A Planning application for residential development of the site was submitted for consideration and is due to be determined by Planning Committee on 10th October. During the course of the application the owner advised that he would be siting a number of caravans on the land for 'security' purposes as he had been notified of an impending incursion by the travellers who had previously occupied the land without permission. The owner informed the Local Authority that this is a short term measure and it is anticipated that the travellers will have left the site by the beginning of October.

3.6 Fir Tree House, Stanton under Bardon

On the 8 October 2015 planning permission was granted for the "Conversion of livestock shed to dwelling, erection of double garage and works to driveway and access". Following a site visit to the property it was evident to the Council that the original building was not being converted and had actually been partially demolished and then re built on the same footprint.

Therefore on the 26 July 2017 the Council issued the owners with a Temporary Stop Notice in order to stop all works on site and to gather further details from the owners in regard to the works being carried out. The Temporary Stop Notice has now expired, and the Council are working with the owners to find a way forward on this site. The owners have agreed with the Council to undertake no further work on site until a solution has been agreed with all parties.

3.7 17 Byron Street, Barwell

On the 21 August 2017 the Local Planning Authority issued an enforcement notice to remove an unauthorised decking area to the rear of the property. The owner has the right to appeal the notice and an appeal should be lodged by the 21 September 2017. No appeal has been lodged and the raised decking area has to be removed by the 21 November 2017.

3.8 Pretty Oak Farm, Stoke Golding

On the 21 August 2017 the Local Planning Authority issued an enforcement notice to remove a marquee. The owner has the right to appeal the notice and an appeal should be lodged by the 21 September 2017. No appeal has been lodged and the marquee has to be removed by the 21 October 2017.

3.9 2 Barton Road, Market Bosworth

On the 21 July 2017 the Local Planning Authority issued a tree replacement notice on the owners of 2 Barton Road, Market Bosworth. Following discussions with the owner it was evident that a tree had been removed which was located in the Conservation Area without notification of the proposed works to the Council. Therefore a notice has been issued to replace the tree.

No appeal has been lodged and the notice is now active. The owner has until the 21 October 2017 to re plant the tree. If the trees have not been replanted then the Council will have to consider whether to prosecute or to undertake direct action and replant the trees.

3.10 123 Stamford Street, Ratby

On the 7 June 2017 the Local Planning Authority issued the owner with an enforcement notice to cease the operation of a dog breeding business from this residential property. The owner has not appealed the enforcement notice and it is therefore now an active notice. The owner must cease using the residential property as a dog breeding business by the 7 October 2017. If the business does not cease by this date then the Council will either prosecute the owner or undertake direct action to ensure that the notice is complied with.

3.11 2 Drayton Lane, Fenny Drayton

On the 7 September 2017 the Local Planning Authority issued the owner with an enforcement notice to remove an unauthorised fence and to ensure that the boundary hedge; which was to remain; as part of the original permitted scheme is re planted. The owner has the right to appeal the enforcement notice and an appeal must be lodged by the 7 October 2017. If no appeal is lodged the owner must remove the fence facing Drayton Lane and re-plant a suitable hedge boundary by the 7 January 2018.

3.12 223 Markfield Road, Groby

On the 7 June 2017 the Local Planning Authority issued the owner with an enforcement notice to remove a storage container from the site. The owner has appealed this decision to the Planning Inspector. The Council are currently awaiting a start date letter as to when appeal details need to be submitted.

3.13 Police Station, Upper Bond Street, Hinckley

On the 19 May 2016 planning permission was granted for the “Change of use from Police Station to 30 residential apartments”. Following a number of complaints received by members of the public and site visits undertaken by officers in the Council it was evident that there were a number of works being undertaken at the site which were not in accordance with the approved plans. Therefore a temporary stop notice was issued on the 28 July 2017 requiring all works on site to cease.

During the period in which the temporary stop notice was in force, discussions took place with the developer in regard to the works required to regularise/rectify the various breaches on site. Following the expiry of the temporary stop notice three separate enforcement notices were issued. The first enforcement notice that was issued requires removal of the unauthorised buildings to the front of the site and the dormer to the rear of the premises. A breach of condition notice was also issued to require the removal of the extension to the rear of the premises, as the materials used do not match the existing property and therefore the extension is required to be re built from materials to match the existing property. The third notice is a further breach of condition notice which is designed to ensure that the bike store within the site is indeed a bike store and not an additional flat.

The Council is in constant communication with the developers on the site to ensure that the remainder of the development is built in accordance with the approved plans. A further application has also been submitted to rectify the issues that were noted internally within the building. It is also noted that the two redundant buildings to the front of the site which was subject to an enforcement notice have now been removed.

3.14 Injunctions in Bagworth

In June 2017 the Council experienced a number of unauthorised gypsy and traveller incursions in and around the Bagworth area. On the 26 June 2017 the Council was granted interim injunctions on the site at Tara House and Heath Road, Bagworth. These injunctions are now in place and as a result if further incursions should occur both the owner of the site and/or the occupiers could be prosecuted.

3.7 S215 – Untidy Land Notices

During period between 1 May 2017 and 31 August 2017, the council was made aware of 17 untidy properties. Six properties are still under investigation and are considered to be affecting the public amenity of the area and appropriate steps are being taken to ensure that the properties are tidied to an appropriate level with Section 215 Notices to be issued as necessary.

Further to this the Council has also issued a Section 215 Notice on owners of 21 Regent Street, Hinckley. Within the notice the owners are required to remove all the wooden panels from the front elevation and to repaint or replace the fascia's on the front elevation. The Section 215 Notice has not been complied with and the Council are undertaking prosecution action against the owner for failing to comply with the notice.

A Section 215 Notice has been served upon owners of 59 Northfield Road, Hinckley. This is a property which was granted planning permission in 2011 to undertake extensions and alterations. Works have been ongoing at an extremely slow rate for over 6 years. A notice has been served to ensure that the building works are completed within four months. If an appeal is not lodged then the works should be

complete by 24 December 2017. If the works have not been done by this timeframe then the Council will either prosecute the owner or undertake direct action to ensure that the notice is complied with.

4.0 WORKLOAD & PERFORMANCE

4.1 The following tables show the current work load the service is managing in respect of current enforcement investigations. Table 1 demonstrates the number of cases that have been opened within that period and how many cases have been closed. The team ensures that enforcement cases are resolved as expediently as possible. Table 2 shows in more detail how the cases were closed. This table demonstrates that the majority of cases that have closed are either through negotiation, or by retrospective planning applications being received and approved. As of the 31 August 2017 there are 211 enforcement cases; however a number of these are currently dormant i.e. awaiting further information or subject to ongoing monitoring to collate evidence. A proactive approach is being taken to ensure cases are resolved as promptly as possible, using all available powers where appropriate.

Table 1: Number of Enforcement cases opened and closed

Period of time	Number of cases opened	Number of cases closed
1 April 2017 to 30 June 2017	107	115
1 January 2017 to 30 March 2017	99	112
1 October 2016 to 31 December 2016	86	99

Table 2: How the enforcement cases were closed

Period of time	Total Cases closed	Case closed by resolving breach	Case closed by not being a breach	Cases closed by being Permitted Development
1 April 2017 to 30 June 2017	115	43	67	5
1 January 2017 to 30 March 2017	112	40	63	9
1 October 2016 to 31 December 2016	99	42	49	8

4.2 From April 2017, additional targets are being used to monitor quality within the service. A new target is in place that requires 80% of enforcement cases be closed within 21 days when there is no breach of planning control.. The second target is to ensure that an enforcement case is closed within 28 days if there is a breach of planning control but it is not considered expedient to take enforcement action. A final

target is that in 80% of enforcement cases, action will to be taken within 28 days if it is expedient. These targets are being achieved for all three categories.

- 4.3 The approach to tackling enforcement cases will continue to be a collaborative one; involving joined up working with other service areas within the council to find solutions. An enforcement group operates across Leicestershire Local Authorities as a forum to share experiences and best practice.

5. FINANCIAL IMPLICATIONS [TF]

- 5.1 None

6. LEGAL IMPLICATIONS LEGAL IMPLICATIONS MR

- 6.1 None

7. CORPORATE PLAN IMPLICATIONS

The 2017-2021 Corporate Plan sets out ambitions for improving neighbourhoods, parks and open spaces, improving the quality of homes and creating attractive places to live (Places theme). It also promotes regeneration, seeks to support rural communities and aims to raise aspirations for residents (Prosperity theme). This report sets out how planning enforcement powers are being used to deliver these aims.

8. CONSULTATION

None

9. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Dealing with numerous Public Enquiries	Monthly monitoring of implications on revenue budget by Head of Service and Service Manager. Review and forecast overspend and review supplementary estimate/virement as part of budget review. Constant review of budget for public	Rob Parkinson

	enquires for duration of the masterplan. Monitoring of budget in relation to appeal costs. Monitoring of planning decisions	
--	---	--

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

This report is for information purposes to update Members on the progress of recent enforcement cases. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

11. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Voluntary Sector

Contact Officer: Craig Allison, Planning Enforcement Officer ext. 5700

Executive Member: Cllr Richard Allen

This page is intentionally left blank

PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 29.09.17

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
17/00018/TREE	JS	17/00259/TPO (PINS Ref 6192)	WR	Richard Jones Ground Floor Unit3 Millers Yard Roman Way Market Harborough LE16 7PW	Land Adjacent 2 Hangmans Lane Hinckley Leicestershire LE10 1SU (Removal of group of crack willow trees)	Start Date Questionnaire	22.09.17 03.10.17
	RWR	17/00123/OUT (PINS Ref 3184407)	WR	Mr Phil Walker Groby Road Ratby LE6 0LJ	Land Rear Of 4 - 28 Markfield Road Ratby (Erection of four dwellings (Outline - access, layout and scale))	Awaiting Start Date	
	TW	17/00607/FUL (PINS Ref 3184092)	WR	Mr Paul Flemans Nuneaton Car Sales 70 Hinckley Road Nuneaton CV11 6LS	Unit 18 Hinckley Business Park Brindley Road Hinckley (Change of use from storage and distribution (B8) to motor vehicles storage, restoration and sales (sui- generis) (Retrospective) (Resubmission of application 16/00765/COU))	Awaiting Start Date	
	TW	17/00504/FUL (PINS Ref 3182485)	WR	Timothy Payne 8 Bradgate Gardens Hinckley	35 Station Road Hinckley (Change of use from office to dwelling with single storey front extension)	Appeal Valid Awaiting Start Date	07.09.17
	AC	17/00545/ADV (PINS Ref 3182058)	WR	Sainsbury's Supermarkets Ltd Toronto Square Leeds LS1 2HJ	Sainsbury's 20 Rugby Road Hinckley (Display of 1x internally illuminated totem sign, 1x non-illuminated totem sign, 2x internally illuminated fascia signs and 1x non-illuminated wall sign)	Appeal Valid Awaiting Start Date	14.09.17

Page 87

Agenda Item 15

	AC	17/00543/CONDIT (PINS Ref 3181442)	WR	Mr Rick Morris TM Builders Tony Morris Builders & Co 80 Wood Street, Earl Shilton LEICESTER LE9 7ND	Cedar Lawns Church Street Burbage (Removal of condition 17 of planning permission 16/00441/FUL to remove the requirement for a brick wall to be constructed between plot 1 and the rear of gardens 66-72 Church Street)	Awaiting Start Date	
17/00016/PP	SF	17/00163/OUT (PINS Ref 3179738)	WR	Mr Paul Mac 44 Station Road Elmesthorpe	52 Heath Lane Earl Shilton Leicester (Erection of 3 dwellings (outline - access, layout and scale only))	Start Date Final Comments	24.08.17 12.10.17
	CA	17/00055/FUL (PINS Ref 3179549)	WR	Mr Daniel Cliff 223 Markfield Road Groby	223 Markfield Road Groby (Siting of a storage container)	Awaiting Start Date	
17/00015/PP	JB	17/00305/FUL (PINS Ref 3178033)	WR	Invicta Universal Ltd 39 Station Road Desford	Land North East Of Old White Cottage 2 Newbold Road Desford (Erection of two detached dwellings and associated access and landscaping (Revised scheme))	Start Date Awaiting Decision	01.08.17
17/00014/PP	RWE	16/00270/FUL (PINS Ref 3176703)	WR	Walrus (Vinyl Revival) Ltd c/o Agent	Newhaven 12 Wykin Road Hinckley (Erection of 7 dwellings with associated access)	Start Date Awaiting Decision	10.07.17
17/00011/PP	CA	16/00944/FUL (PINS REF 3174674)	WR	Mr Patrick Godden c/o Agent	Upper Grange Farm 1A Ratby Lane Markfield (Erection of new dwelling and conversion of existing hydro pool to garages)	Start Date Awaiting Decision	16.06.17
17/00012/PP	JB	16/00757/FUL (PINS Ref 3173503)	WR	Mrs Rita Morley 5 Whitehouse Close Groby	5 White House Close Groby (Erection of 1 dwelling (resubmission))	Start Date Awaiting Decision	26.06.17
	CA	17/00048/S215S (Pins Ref 3185061)	WR	Mr Balbir Singh	Former Police Station Upper Bond Street Hinckley	Awaiting Start Date	

17/00008/PP	SF	16/01003/OUT (PINS Ref 3173191)	WR	Mr & Mrs Raynor Hill Rise Station Road Desford	Land Adj Hill Rise Station Road Desford (Two new dwellings (outline - access and layout))	Start Date Awaiting Decision	17.05.17
-------------	----	------------------------------------	----	---	---	---------------------------------	----------

Decisions Received

17/00013/PP	RWE	16/00726/OUT (PINS Ref 3174326)	WR	Ms J Perrin c/o Agent	65 Coventry Road Burbage Hinckley (Demolition of no. 65 Coventry Road and erection of 13 no. dwellings (outline - access, layout and scale))	DISMISSED	07.09.17
17/00009/PP	RWR	16/01148/FUL (PINS Ref 3175878)	WR	Mr Nigel Foulds	Hill Farm, Markfield Lane, Botcheston, LE9 9FH (Erection of one detached dwelling - single storey bungalow)	DISMISSED	27.09.17

Rolling 1 April 2017 - 22 September 2017

Planning Appeal Decisions

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
12	4	8	0	0	4	0	8	0	0	0	0	0	0

Enforcement Appeal Decisions

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn
0	0	0	0	0

This page is intentionally left blank