

# Public Document Pack



Hinckley & Bosworth  
Borough Council

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

Date: 27 November 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, 5 DECEMBER 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

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### Council Chamber (De Montfort Suite)

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- *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.

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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 - 5 DECEMBER 2017

### A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
2. MINUTES (Pages 1 - 4)  
To confirm the minutes of the meeting held on 7 November 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  
To report progress on any decisions delegated at the previous meeting.
7. 17/00765/FUL - THE BIG PIT, LAND TO THE REAR OF 44 TO 78 ASHBY ROAD, ASHBY ROAD, HINCKLEY (Pages 5 - 34)  
Application for erection of 60 dwellings including engineering infill operation and associated works.
8. 17/01035/REM - 44 LEICESTER ROAD, HINCKLEY (Pages 35 - 40)  
Application for approval of reserved matters (layout, scale, appearance and landscaping) of outline planning permission 16/00902/OUT for the erection of one dwelling.
9. 17/00776/FUL - 7 HUNTERS WALK, WITHERLEY, ATHERSTONE (Pages 41 - 48)  
Application for erection of timber post and wire fence adjacent to Kennel Lane (resubmission of 17/00310/FUL).
10. 17/00943/REM - 2 LUTTERWORTH ROAD, BURBAGE (Pages 49 - 54)  
Application for approval of reserved matters (appearance, landscaping, layout, scale) of outline planning permission 14/00982/OUT for one dwelling.
11. APPEALS PROGRESS (Pages 55 - 58)  
To report on progress relating to various appeals.
12. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

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# Agenda Item 2

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### PLANNING COMMITTEE

7 NOVEMBER 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 K Morrell (for Mrs H Smith), Mr RB Roberts,  
Mrs MJ Surtees and Ms BM Witherford

In accordance with Council Procedure Rule 11 Councillor Mr RG Allen was also in attendance.

Officers in attendance: Paul Grundy, Mary-Ann Jones, Rebecca Owen, Michael Rice and Nicola Smith

#### 201 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Smith and Wright with the substitution of Councillor Morrell for Councillor Smith authorised in accordance with council procedure rule 10.

#### 202 MINUTES

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

RESOLVED – the minutes of the meeting held on 10 October 2017 be confirmed and signed by the chairman.

#### 203 DECLARATIONS OF INTEREST

No interests were declared at this stage.

#### 204 DECISIONS DELEGATED AT PREVIOUS MEETING

It was reported that all decisions delegated at the previous meeting had been issued.

At this juncture, Cllr Boothby referred to minute 170 of the previous meeting (application 17/00634/FUL – Dunlop Limited, Station Road, Bagworth) and stated that, in proposing refusal, he had cited “unsustainability” as a reason for refusal. Whilst it was emphasised that the minutes of the previous meeting had already been agreed as a correct record, Cllr Boothby requested that his comment be minuted at this point.

#### 205 17/00795/REM - LAND TO THE SOUTH WEST OF LUTTERWORTH ROAD, BURBAGE

Application for approval of reserved matters (appearance, layout, scale and landscaping) of outline planning permission 15/01292/OUT for residential development of 72 dwellings.

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

RESOLVED –

- (i) Permission be granted subject to the conditions contained in the officer's report and late items;
- (ii) The Planning Manager (Development Management) be granted delegated powers to determine the final detail of planning conditions.

206 15/01221/HYB - BARONS PARK FARM, DESFORD LANE, KIRBY MUXLOE

Hybrid application for the residential development of up to 17 new dwellings including the conversion of existing barns to include full application for conversion of barns to three dwellings and outline application for the erection of 14 dwellings (outline – access only).

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

RESOLVED –

- (i) Permission be granted subject to:
  - (a) Prior completion of a S106 agreement to secure the following obligations:
    - High school education - £18,054.93
    - Upper school education - £18,538.71
    - Traffic regulation order for speed limit change - £7,500
    - Vehicular activated sign - £12,000
    - Affordable housing – 40% 75/25% social rented/intermediate tenure
  - (b) The conditions outlined in the officer's report;
- (ii) The Planning Manager (Development Management) be granted delegated powers to determine the final detail of planning conditions;
- (iii) The Planning Manager (Development Management) be granted delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

207 15/01198/FUL - LAND SOUTH OF NEW BRIDGE FARM, DESFORD LANE, KIRBY MUXLOE

Application for erection of an agricultural dwelling, 2 agricultural buildings and farm yard area.

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

RESOLVED –

- (i) Permission be granted subject to the conditions contained in the officer's report and late items;
- (ii) The Planning Manager (Development Management) be granted delegated powers to determine the final detail of planning conditions;

- (iii) The Planning Manager (Development Management) be granted delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

208 17/00813/FUL - ST MARTINS CATHOLIC VOLUNTARY ACADEMY, CONVENT DRIVE, STOKE GOLDING

Application for erection of a single storey building to provide four classrooms.

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

RESOLVED –

- (i) Permission be granted subject to the conditions outlined in the officer's report;
- (ii) The Planning Manager (Development Management) be granted power to determine the final detail of planning conditions on the basis set out in the report.

209 17/00883/FUL - 37 BOSWORTH CLOSE, HINCKLEY

Application for erection of one new dwelling.

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

RESOLVED –

- (i) Permission be granted subject to the conditions contained in the officer's report;
- (ii) The Planning Manager (Development Management) be granted powers to determine the final detail of planning conditions.

210 17/00705/FUL - 154 SAPCOTE ROAD, BURBAGE

Application for change of use and the erection of a boarding cattery.

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

RESOLVED –

- (i) Permission be granted subject to the conditions outlined in the officer's report;
- (ii) The Planning Manager (Development Management) be granted powers to determine the final detail of planning conditions.

Councillor Boothby left the meeting at 8.12pm.

211 LOCAL HERITAGE LIST - SELECTION CRITERIA

Members received a report which considered selection criteria to identify potential local heritage assets across the borough. It was moved by Councillor Sutton, seconded by Councillor Witherford and

RESOLVED – the selection criteria set out in the report be supported.

212 APPEALS PROGRESS

Members received an update on progress in relation to various appeals. In relation to the former Police Station on Upper Bond Street, Hinckley, it was reported that work had been allowed to recommence to allow the developer to make the changes required of them, with close monitoring.

(The Meeting closed at 8.16 pm)

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CHAIRMAN



Planning Committee 5 December 2017  
Report of the Planning Manager, Development Management

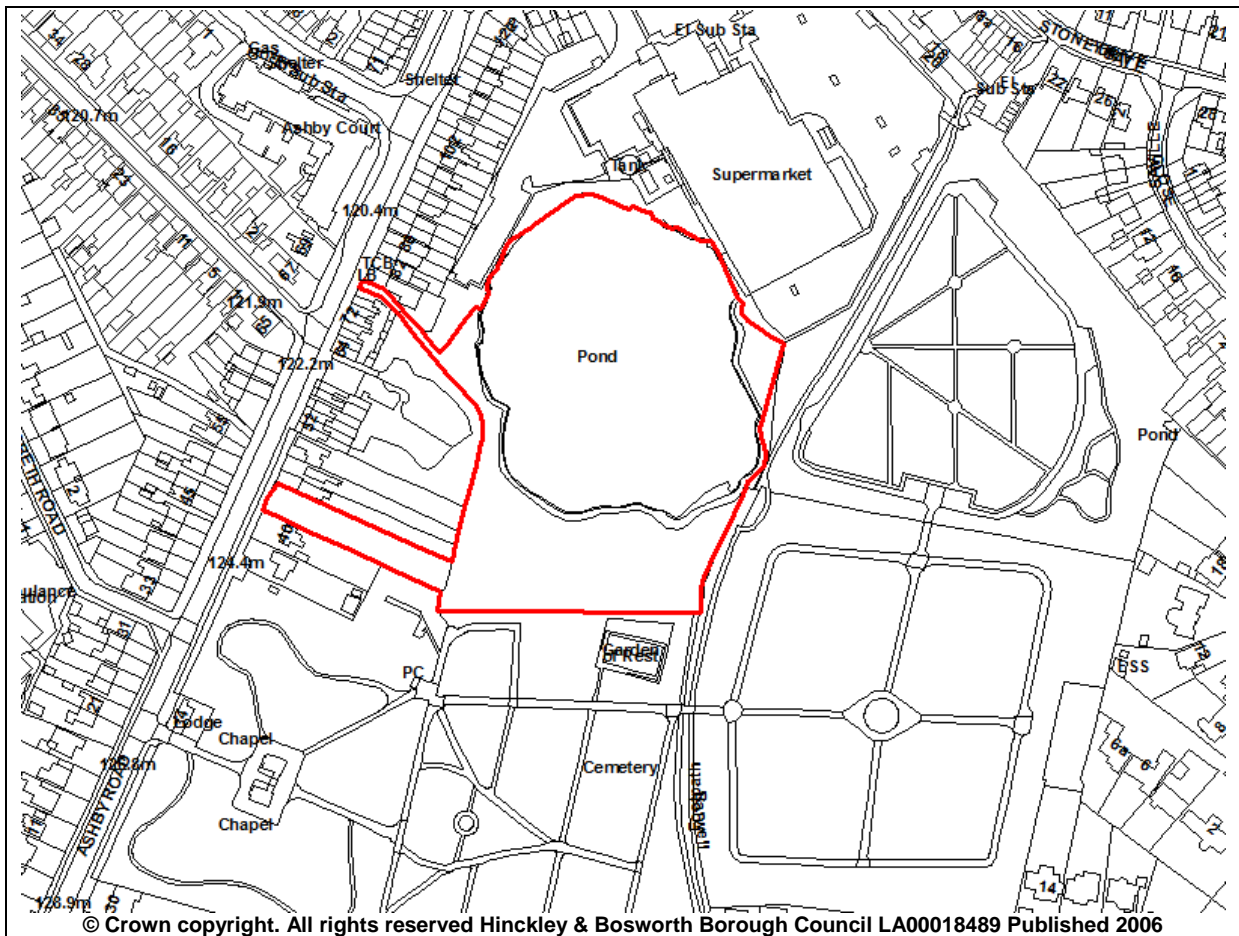


Hinckley & Bosworth  
Borough Council

Planning Ref: 17/00765/FUL  
Applicant: Orbit Group Ltd  
Ward: Hinckley DeMontfort

Site: The Big Pit Land To The Rear Of 44 To 78 Ashby Road Ashby Road,  
Hinckley

Proposal: Erection of 60 dwellings including engineering infill operation and  
associated works



## 1. Recommendations

### 1.1. Grant planning permission subject to

- The prior completion of a S106 agreement to secure the following obligations:
  - 100% affordable housing
  - Play and open space plan and maintenance scheme
- Planning conditions outlined at the end of this report.

### 1.2. That the Planning Manager, Development Management be given powers to determine the final detail of planning conditions.

- 1.3. That the Planning Manager Development Management 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 engineering works to infill the existing former quarry site, known locally as The Big Pit, reinstatement of the Sunnyside Brook and the erection of 60 affordable dwellings with associated infrastructure.

## 3. Description of the Site and Surrounding Area

- 3.1. The application site is located within the settlement boundary of Hinckley. The area in which the site is located has a mix of uses. The site is bound to the north by a supermarket, Asda, with the rear elevation and compound adjoining the site, to the east and south by Ashby Road Cemetery and to the west by primarily residential development.
- 3.2. The application site comprises a former clay pit on the northern side of the site which has created a water body. The southern side of the site comprises a large area of vegetation and scrub land and to the west there is an overgrown area of land which was formerly a dwelling but has been demolished and been left to become overgrown.
- 3.3. The southern side of the application site is safeguarded as an allocation for residential development. The northern side of the site comprising the body of water is allocated as semi-natural/natural open space.
- 3.4. Adjoining the eastern boundary of the application site is a public footpath.

## 4. Relevant Planning History

13/00862/C	Outline application (access only) for residential development, including the importation of material and in - fill engineering works to former clay pit to enable residential development - Land rear of 42, Ashby Road (County Council Identity Number: 2013/CM/0299/LCC)	Refused Allowed on appeal	13.11.2013 04.12.2014
12/00885/GDOD	Demolition of detached dwelling and garage	Approved	19.11.2012
12/00950/EXT	Extension of time for extant outline planning permission 09/00778/EXT for outline residential development (05/00684/out)	Approved	13.06.2013
09/00778/EXT	Extension of time for extant planning permission 05/00684/out for outline residential development	Approved	11.01.2010
05/00684/OUT	Residential Development	Refused Allowed on appeal	07.12.2005 30.01.2007

## **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. 26 representations of objection have been received, the comments are summarised as follows:
- 1) The pit is fed by underground springs
  - 2) The Big Pit is connected to The Little Pit which is a protected site
  - 3) There will be flooding issues if the pit is filled in
  - 4) Who will be liable for future flooding
  - 5) Orbit have not answered questions from residents following their consultation
  - 6) There are bats, crayfish and otters present on the site
  - 7) The site should be protected as a wildlife site
  - 8) Asda regularly floods
  - 9) Loss of amenity of neighbours during construction
  - 10) Significant highway impacts from increased vehicular movements
  - 11) Increased demand on local infrastructure
  - 12) There is no need for additional housing in the area
  - 13) Loss of a local heritage asset
- 5.3. A petition containing 1700 signatures was submitted to the case officer which referred to concerns with the development of the site and a wish to compulsory purchase the site for community use. The petition does not specifically refer to this planning application or material planning considerations. Therefore, the petition has not been accepted in relation to this planning application but will be considered by full council under the petitions scheme

## **6. Consultation**

- 6.1. No objection, some subject to conditions, has been received from the following:
- Environmental Health (Pollution)
  - Environmental Health (Drainage)
  - Affordable Housing Officer
  - Waste Services
  - Conservation officer
  - Leicestershire County Council (Minerals)
  - Leicestershire County Council (Drainage)
  - Leicestershire County Council (Ecology)
  - Leicestershire County Council (Highways)
  - Environment Agency
- 6.2. County Cllr Mullaney – objects to the application for the following reasons:
- 1) Increased risk of flooding
  - 2) The 27 stringent conditions from the previous appeal decision should be imposed and
  - 3) The site is unsuitable for housing

- 6.3. As a result of the Developer Contribution consultation, the following planning obligations are sought:

Leicestershire County Council (Education):

- Primary education - £174,225.74

Leicestershire County Council (Libraries) - £1,800

Leicestershire County Council (Civic amenity) - £2972

West Leicestershire Care Commission Group - £17,330.40

## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- 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 SA1: Safeguarding Site Allocation
- 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 Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM9: Safeguarding Natural and Semi-Natural Open Spaces
- 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

- Site history
- Principle of development
- Affordable housing
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage and flood risk
- Ecology and biodiversity
- Contamination
- Green space and play provision
- Planning obligations
- Viability
- Conditions
- Other matters

### Site history

- 8.2. The site has an extensive history including an expired planning permission for residential development to the south of the pit with access onto Ashby Road. Subsequently, outline planning permission was granted (2013/CM/0299/LCC) for infilling of the pit and residential development of up to 60 dwellings on the same site which is still extant.
- 8.3. The extant outline planning permission was initially determined by Leicestershire County Council as the Local Planning Authority ref: 2013/0862/04. The application was recommended by the planning officer for approval but it was subsequently refused by the planning committee. An appeal was made against the refusal and the appeal was allowed on 4/12/14 and permission granted subject to conditions and a S106 agreement. An award of costs was made against the County Council for unreasonable behaviour in not substantiating a reason for refusal.
- 8.4. The extant outline planning permission was due to expire on 4 December 2017 unless a reserved matters application was made to the Local Planning Authority which in this instance is the County Council. The applicant has provided confirmation that a reserved matters application has been submitted and has been validated by the County Council. In accordance with condition 3 of the appeal decision, the permission will remain extant unless the development has not begun within two years from the date of approval of the last of the reserved matters to be approved.
- 8.5. The extant permission for housing is a key material consideration in the determination of this application. This extant permission established the principle of infilling the pit and redeveloping the site for residential development. This current application therefore needs to be considered in light of the detail of how this would be achieved.

### Principle of development

- 8.6. The Core Strategy identifies Hinckley as a sub-regional centre which provides key transport links to nearby centres, a mix of retail, employment and leisure facilities. Policy 1 of the Core Strategy identifies that 1120 residential dwellings will be provided within Hinckley over the development plan period 2006-2026.
- 8.7. The southern section of the site adjacent to the pit is designated for residential development through allocation HIN26PP. Policy SA1 of the Site Allocations and Development Policies DPD (SADMP) states that sites identified as having planning permission will be safeguarded as an allocation for the same land use(s) and quantum of development in the event that planning permission expires.
- 8.8. The pit and land immediately adjoining it is identified in the SADMP under allocation HIN111 as natural and semi-natural open space and open space and amenity green space. Policy DM8 of the SADMP states that planning permission will not be granted for proposals resulting in the loss of areas of open space unless the proposal meets the exemptions as set out in the policy. Policy DM9 of the SADMP states that all development within or affecting natural and semi-natural open space should seek to retain and enhance the accessibility of the space and its recreational value whilst enhancing the biodiversity and conservation value.
- 8.9. The proposal would result in a loss of open space protected by Policies DM8 and DM9 of the SADMP. However, there is an extant planning permission on the site for infilling of the pit and residential development for up to 60 dwellings. The acceptability in policy terms of the loss of this open space has already been established as a result of the extant planning permission. The extant planning permission and the provisions of policy SA1 are significant material planning

considerations and it is considered that they should be given significant weight in a consideration of the relevant policies relating to this site; Officers` view is that these material considerations outweigh the allocation of the site under HIN 111.

- 8.10. The principle of residential development of this site has been established by the extant planning permission (2013/CM/0299/LCC), which is a significant material consideration in the determination of this application. The principle of residential development is therefore acceptable.

Affordable housing

- 8.11. 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. 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.
- 8.12. This development proposes 60 dwellings on the site with an even split between social rented and intermediate tenure. Discussion between the Registered Provider and the Local Planning Authority has resulted in agreement of the tenure mix on-site. Whilst the tenure is not consistent with the 75% social rented and 25% intermediate housing split starting point as set out in Policy 15, it is the preferred option for this specific site to enable the scheme to be delivered and therefore is in accordance with Policy 15.
- 8.13. Developments in Hinckley meet the needs of housing applicants for the entire Borough and the section 106 agreement will include provision for the allocation of dwellings in accordance with the Council`s Housing Allocations Policy
- 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.

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. The proposal comprises residential development on the central and western side of the site and reinstatement of a watercourse on the eastern side of the site.
- 8.18. The residential development on the site would comprise a mix of two and three bedroom semi-detached and terraced houses. The residential development bounding the site to the west comprises primarily semi-detached and terraced houses with a mix of garden sizes. The proposed residential development would be characteristic of the surrounding built form. However, the development would be sited to the rear of the adjoining development along a long access and would be interpreted in a different context to the Ashby Road frontage. There is proposed to be a footpath through the site adjoining the public footpath to the east of the site and therefore it is important to ensure the development has a strong character and streetscapes in its own right.
- 8.19. The mix of housing types is generally in accordance with the requirements of Policy 16 of the Core Strategy. The density of dwellings per hectare is 27.39 which is below the 40 dwellings per hectare sought by Policy 16. However, the policy identifies that there may be site specific circumstances to justify a lower density. In this instance, due to the land required for the reinstatement of the watercourse, a

lower density is acceptable and is in accordance with the extant outline planning permission.

- 8.20. The scheme proposes development along one arterial road through the site from north to south with three secondary roads adjoining from east to west. The secondary roads are likely to comprise a shared surface. The layout has been designed and amended to provide strong streetscapes to the site access, arterial road and southern secondary road where there are public routes through the site from the adjoining public footpath and fronting onto the reinstated watercourse. Corner plots have been designed to incorporate a mix of dual-fronted house types and semi-detached houses following the curvature of the road. The design of the dwelling is varied with a mix of materials of render and red brick, differing architectural features and porch types and important nodal plots have chimneys. The variation in design would provide interest to the streetscape and avoid monotony.
- 8.21. A landscape strategy plan has been submitted. The plan provides an overarching concept for the soft and hard landscaped area. The overall concept areas appear to be acceptable although full details will be secured through a planning condition. Where there are larger areas of hard landscaping for car parking these should incorporate differing materials to avoid the hard surfacing to become dominating. Boundary treatments forming part of the street scene shall be of a high quality and close boarded fence should be avoided where possible.
- 8.22. The site contains several mature trees, primarily along the southern boundary, and mature hedgerows. An arboricultural impact assessment has been submitted identifying that five trees need to be removed to facilitate the development; these are located along the southern boundary adjacent to the access and amenity spaces of the proposed dwellings. The trees have been categorised as B2 trees as a result of their cumulative contribution and their loss is not favourable. However, it is not feasible to retain the trees due to their impact on future occupiers and a revised layout would not result in an efficient use of the site. Several trees across the site would be retained as well as replacement planting proposed. Therefore, it is considered that the loss of the trees is acceptable. A tree protection plan during construction has been submitted which shall be secured through a planning condition.
- 8.23. The watercourse on the eastern side of the site would provide an area of natural open space and would be planted with native species to encourage biodiversity. The area of open space would retain a landscaped buffer between the development and the footpath to the east of the site. Some play and open space equipment, comprising timber play stations, will be provided along the eastern side of the residential development fronting the watercourse and to the south east corner adjoining the public footpath so it can be utilised by the occupiers of the development and users of the footpath.
- 8.24. The proposed development would complement the character of the surrounding area, provide high quality streetscapes and open space and a mix of dwelling types. It is considered that the development is in accordance with Policy 16 of the Core Strategy and Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.25. Policy DM10 of the SADMP seeks to ensure that developments do 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 (including odour), noise vibration and visual intrusion. Additionally, the policy seeks to ensure

that the amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site.

#### Infill, engineering and construction works

- 8.26. A noise assessment has been submitted in support of the application. The application details the likely noise implications from the various works and their potential impacts on neighbouring amenity. At present, and as per the extant outline planning permission, the specific details of the operations and plant and equipment are not yet available. When assessing the extant outline planning permission the inspector considered that the works would not have a significant adverse impact on neighbouring amenity and imposed a set of conditions in relation to the infilling and engineering works. In addition to noise, the inspector considered matters in relation to dust and vibration. As the specific details of the works have not progressed beyond that of the extant outline planning permission, it is considered reasonable and necessary to impose the previous conditions to any permission granted pursuant to the current application. Environmental Health (Pollution) has raised no objection subject to the imposition of the previously imposed planning conditions.

#### Future occupiers

- 8.27. The northern boundary of the site adjoins Asda. The submitted noise impact assessment identifies noise sources that could be harmful to neighbouring amenity if not mitigated. The noise sources include air handling units, louvres and the service yard. It is considered that the noise impacts can be adequately mitigated. Acoustic fencing would need to be provided adjoining the service yard and would be approximately 3m high. The acoustic fencing would be located in rear gardens and therefore would not adversely impact on the street scene. The dwellings have sufficiently deep gardens to avoid an adverse impact on the outlook from habitable rooms. The louvres are located approximately 4m above ground level where an acoustic fence alone would have an unacceptable appearance due to the required height. In this instance, an earth bund could be used to provide additional height and a shorter acoustic fence provided above. It is not possible at this stage to determine the exact details of the mitigation measures as the exact finished ground and floor levels are not yet known. Therefore, a scheme for the protection of future occupiers will be secured through a planning condition.
- 8.28. The proposed development provides a good level of private amenity space for each dwelling and there are no concerns with overlooking or intervisibility between plots.
- 8.29. The proposed dwellings would be sufficiently separated from adjoining neighbouring residential properties to avoid adverse impacts with regards to overlooking, overbearing and overshadowing. The inspector for the extant outline planning permission considered the noise impact of the access road for 60 dwellings on the adjoining neighbouring properties and concluded that there would be no adverse impact resulting from noise and disturbance. This is a material consideration which must be taken into account and it is considered that the previous conclusion regarding the impact of the access upon existing residents has not changed for this application.
- 8.30. Subject to the imposition of planning conditions, the proposed development would not have an adverse impact on the amenity of occupiers of neighbouring properties and would provide future occupiers of the development with a good level of amenity. The proposed development is considered to be in accordance with Policy DM10 of the SADMP.



#### Impact upon highway safety

- 8.31. 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.
- 8.32. A transport statement has been submitted with the application to assess the potential highway impact of the proposed development during both the infill and construction stages and permanent residential use.
- 8.33. The application proposes 5.5 metre wide adoptable road adjoining Ashby Road in the location where No.42 Ashby Road previously stood. It is proposed to construct a right hand turning lane on Ashby Road to avoid inhibiting the free flow of traffic in a northerly direction. A bell mouth junction is proposed with kerb radii measuring 8m on each side. During construction a footpath will only be provided on one side to allow a temporary larger radii to accommodate HGVs. Leicestershire County Council (Highways) has confirmed that the access is suitable for the construction phases of the development and the residential development in perpetuity.
- 8.34. A construction management plan has been submitted providing details of the control of traffic during the infilling phases of the development. HGV movements along the access road will be limited to one vehicle at a time and would be controlled by a banksman. The amount and type of HGV movements associated with the infill phase shall be limited to 75 deliveries of material per day as agreed acceptable for the extant outline planning permission and as detailed in the Construction Management Plan. The construction management plan has been considered by LCC (Highways) who consider the details acceptable in relation to the requirements for sweeping of the roads, the access/egress being left turn only, a maximum of 75 HGV deliveries per day Monday to Friday between 08:00 and 16:00, the use of a banksman and maintenance of the adjacent highway to avoid mud and deleterious material entering the highway. Additional information has been requested in relation to constructor and visitor on-site parking and turning facilities during both the infill and construction phases. This information has not yet been provided and therefore a condition should be imposed to secure the details prior to commencement of development as per the extant outline permission.
- 8.35. The internal roads are proposed to be built to adoptable standards excluding the most northerly road located off the central road. LCC (Highways) have raised no objections to the overall layout of the development subject to condition and has confirmed the roads, where proposed, would meet adoptable standards.
- 8.36. Two car parking spaces are proposed per dwelling with the exception of eight of the two bedroom properties which would be served by one car parking space. The reduction of car parking on eight plots to a single car parking space each is a result of the location of the dwellings i.e. fronting onto the bend near the access or fronting the reinstated watercourse. In some cases, it may be possible to achieve an additional space but this would result in large areas of hardstanding which would significantly adversely impact on the character of the street scene. Having regard to the location of the site within Hinckley with good access to facilities and services on foot and by cycle as well as access to public transport, it is considered that the reduction on eight plots to one car parking space for two bedroom dwellings is acceptable.
- 8.37. It is considered that the proposed development would not have a significant adverse impact on highway safety during the infill and construction phases or during the residential occupation of the dwelling. The internal layout of the site is generally acceptable subject to minor changes. The level of car parking is considered acceptable having regard to the location, type of housing and availability of

alternative transport methods. The proposed development, subject to conditions, is considered to be in accordance with Policies DM17 and DM18 of the SADMP.

#### Drainage and flood risk

- 8.38. 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 create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against in line with National Policy.
- 8.39. Paragraph 101 of the NPPF states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding. The principle of development has been established through the extant outline planning permission which is a significant material planning consideration. Therefore, the undertaking of a sequential test is not required in this instance.
- 8.40. A large proportion of the site comprises a former clay pit which is presently filled with water. The body of water is fed by an existing ditch and there is an existing 150mm piped watercourse which flows from the northern edge of the clay pit away from the site within the Asda car park. An outline drainage strategy has been provided for the site incorporating the reinstatement of the watercourse.
- 8.41. It is proposed to reinstate the Sunnyside Brook watercourse on the eastern side of the site. Surface water from the site would outfall into the watercourse and would flow into the culverted watercourse underneath Asda to the north of the site. The extant planning permission required the culvert under the Asda car park to be upgraded to allow for the volume of water; it is unclear if these works have already been undertaken separately to the application and therefore a condition is proposed to secure the upgrading of the culvert prior to construction of the dwellings. Notwithstanding the upgrading of the culvert, it is proposed to control the outflow of water into the culvert through the use of a hydro brake and provide water storage within the site. Water storage would be provided surrounding the reinstated watercourse by way of a floodplain attenuation basin.
- 8.42. The Environment Agency has commented on the application in relation to the drainage and infilling of the pit and reinstatement of the watercourse. The EA has raised no objection to the proposed development subject to the imposition of planning conditions. The planning conditions they recommended imposing are the same requirements as were imposed on the extant outline planning permission by the planning inspector in relation to the following:
- A detailed scheme for the reinstatement of the Sunnyside Brook and its floodplain corridor;
  - The upgrading of the culverted watercourse beneath the Asda car park;
  - A construction method statement to cover channel and bank works including details of the temporary diversion of the existing watercourse;
  - Finished floor level requirements
- 8.43. In addition to the above conditions imposed on the extant outline permission, the EA has recommended a condition for a biodiversity method statement to be submitted. The method statement shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance which would include impacts upon the 'Little Pit'.

- 8.44. Concern has been raised that the draining of The Big Pit could impact upon the waterbody known as The Little Pit. However, the EA have confirmed that the waterbodies are not connected. The EA have commented that:

*'The Environment Agency are satisfied that the two pits (the Big Pit and the small protected pit) are not connected via an underground waterway or otherwise.*

*Groundwater held within the Secondary and Undifferentiated Aquifers beneath the proposed site is water held within a permeable layer of rock or other consolidated materials.*

*The "Little Pit" is to the northeast of the "Big Pit" and cuts through different geology to that of the "Big Pit". The "Little Pit" intersects the Wolston Sands and Gravels, which is classified as a Secondary A aquifer. The "Little Pit" is therefore anticipated to be linked to the levels of groundwater within the Wolston Sands and Gravels and be fed by springs from these deposits.*

*It is not considered to be in hydraulic continuity with the "Big Pit", which is located on different geology (Wolston Clay).'*

- 8.45. Leicestershire County Council (Drainage) has commented on the application primarily in relation to the drainage associated with the surface water drainage required for the dwellings following the infill works. LCC (Drainage) has raised no objections to the proposed development subject to conditions; in addition to those recommended by the EA. These conditions require a surface water management plan, a construction surface water management plan and sustainable urban drainage maintenance scheme.

- 8.46. Concern has been raised that the pit is fed by springs and some documentation has been provided. The documentation refers to a spring on the west of Ashby Road and a streamlet along Barwell Lane. The EA were consulted on the submitted evidence and concerns and responded as follows:

*'The Environment Agency are satisfied that the Flood Risk Assessment identifies all tributaries and inflows into the Big Pit.*

*The Big Pit has been excavated into the superficial deposits of the Wolston Clay. This is classified as an Unproductive strata, meaning that it does not contain significant quantities of groundwater. Any groundwater encountered in these deposits are likely to be confined to pockets and lenses of granular material within the clay; these would not be representative of or linked to the regional groundwater levels.*

*As such, it is not considered that there are any tributaries or inflows into the pit. The Big Pit is considered to have been effectively acting as a sump at the base of the natural depression, slowly filling from rainfall and surface run-off'.*

- 8.47. In addition to the above, concern has been raised that Asda's car park to the north of the site floods and the location of the drainage outfall has been queried to ensure it is not into The Big Pit. A Severn Trent Water plan has been provided by the Environment Agency which illustrates a private sewer along the length of the Asda building running north and then north east towards the combined STW sewer.

- 8.48. It is considered that the proposed development would not create or exacerbate flood risk and would protect the quality of groundwater in accordance with Policy DM7 of the SADMP.

### Ecology and biodiversity

- 8.49. Policy DM6 of the SADMP seeks to conserve features of nature conservation. Development proposals affecting locally important sites should seek to contribute to their favourable management in the long term and where a proposal is likely to result in harm to locally important sites developers will be required to accord with the following sequential test:
- Firstly, seek an alternative site with a lesser impact than that proposed;
  - Secondly, and if the first is not possible, demonstrate mitigation measures can be taken on site;
  - Thirdly, and as a last resort, seek appropriate compensation measures, on site wherever possible and off site where this is not feasible.
- 8.50. An ecological appraisal has been submitted with the application which includes a phase 1 habitat survey and additional survey work in accordance with the findings of the phase 1 survey. The appraisal confirms that:
- There are several species of bat present on the site although these use the site primarily for foraging and commuting as opposed to roosting due to the lack of buildings and suitable trees.
  - There are no badgers setts present on or in close proximity to the site. No evidence of any other protected, rare or notable mammal species was recorded within the site. The submitted appraisal confirms that the open water habitat provides suboptimal habitat for riparian species such as Water Vole and Otter. However, these species are highly unlikely to be present within the site due to the lack of connectivity of the site to other suitable habitat in the local landscape.
  - Great Crested newts are known to be present and breeding in the nearby 'Little Pit' and presence in the Big Pit has been discounted through eDNA testing. Due to separation of the waterbodies by built form including a road, it is considered GCNs do not commute to the site. Therefore, it is highly unlikely that the proposed development would lead to any significant effects on the conservation status of GCNs.
  - No evidence for the presence of any protected, rare or notable invertebrate species was recorded within the site. The open water habitat within the site is highly unlikely to support White-clawed Crayfish as the site is well removed and separated from known nearby populations, has been drained three times since 2003 and there is a lack of associated nearby historic records.
- 8.51. Leicestershire County Council (Ecology) has commented that the loss of a large body of water is not favourable but has accepted that the principle has already been established and comments on that basis. The surveys of the site, recording no evidence of badger setts, great crested newts or bat roosts, have been accepted. The layout provides a drainage feature that appears to have been designed to provide biodiversity opportunities through the site which is welcomed. The recommendations of the report should be secured through a planning condition as well as additional conditions in relation to a lighting scheme, a biodiversity management plan and additional surveys dependent upon when the development commences.
- 8.52. Concern has been raised that otters are present on the site. No evidence has been provided to support this and absence has been confirmed as part of the ecological appraisal which has been accepted by LCC Ecology.
- 8.53. Policy DM6 requires in the first instance that developments with biodiversity and nature conservation impacts should seek an alternative site with a lesser impact.

The principle of development has been established through the extant outline planning permission and therefore development of the site is acceptable. In the second instance Policy DM8 requires development to demonstrate mitigation measures on-site. The proposed development would provide a drainage feature on-site which would provide biodiversity enhancements. Therefore, it is considered that the proposed development would be in accordance with Policy DM8 of the SADMP.

#### Contamination

- 8.54. Policy DM7 of the SADMP seeks to ensure appropriate remediation of contaminated land in line with minimum national standards is undertaken.
- 8.55. Site Investigations have been submitted as part of the application and confirmed that there are only minor levels of contamination at present on the site. The localised areas of contamination would be located under hard surfacing and therefore Environmental Health (Pollution) has confirmed that no remediation works are required.
- 8.56. A remediation statement has been submitted in relation to the infilling of the pit with inert material. The remediation statement details how the materials shall be controlled and tested to ensure no contaminated materials are brought onto site. Environmental Health (Pollution) has commented that the criteria against which the imported soils are assessed are incorrectly detailed in the remediation statement and therefore an amended version is required which can be secured through a planning condition. Provided the recommendations of the remediation statement are followed, there are no concerns in relation to contamination of imported materials. The remediation statement includes visits to be undertaken by an engineer throughout the remediation works to ensure that the requirements of the remediation statement have been implemented at the site and a verification report will be required on completion of the works confirming that any remedial works have been satisfactorily completed. Submission of the verification report should be secured through a planning condition.
- 8.57. Subject to conditions in relation to the infill works, it is considered that the proposed development would ensure appropriate remediation of contaminated land would ensure no contaminated materials are used as part of the infill works. The proposed development would be in accordance with Policy DM7 of the SADMP.

#### Green space and play provision

- 8.58. Policy 19 of the Core Strategy identifies requirements for access to green space and play provision for occupiers of residential developments.
- 8.59. The submitted site layout plan has identified areas where equipped children's play space shall be delivered. It has been identified that the equipment will be delivered as timber outdoor play stations. The full details of the equipment have not been provided at this stage and therefore shall be secured through a planning condition.
- 8.60. The proposed development includes the reinstatement of the watercourse and an associated flood plain/compensatory storage area. The watercourse and adjoining areas shall be planted with a mix of native species providing habitats for wildlife. It is considered that this feature shall provide access to natural green space in accordance with Policy 19.
- 8.61. Surrounding the reinstated watercourse and play equipment and along the access will be areas of informal/casual play space. The exact square meterage of the informal/casual play space to be delivered will be confirmed when the detailed design of the watercourse and compensatory storage area is finalised. However, it is expected that the delivery of informal/casual play space will fall short of the

requirement of Policy 19. A maintenance contribution shall be sought through a S106 agreement in the event that the space is adopted.

- 8.62. The provision of the above on-site green space and play provision shall be subject to a maintenance contribution sought through a S106 agreement, only applicable in the event that the space is adopted by the Council. The exact square meterage of each typology of open space is dependent upon the final design of the reinstated watercourse and compensatory storage area, which is subject to minor changes through the detailed design. An open space plan shall be secured through the S106 agreement and a maintenance contribution paid per square metre per typology of open space.
- 8.63. An off-site contribution should be secured for the delivery of Outdoor Sports Provision. Based on the delivery of 60 dwellings a provision contribution should be sought for £31,703.04 and a maintenance contribution sought for £30,412.90.
- 8.64. Subject to delivery of the on-site green space and play provision and off-site contributions, the proposed development would accord with Policy 19 of the Core Strategy.

#### Planning obligations

- 8.65. 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

- 8.66. The site falls within the catchment area of Hinckley The Parks Primary School. The School has a net capacity of 600 and 572 pupils are projected on the roll should this development proceed; a surplus of 28 pupil places. There are currently no pupil places at this school being funded by S106 agreements from other developments in the area to be deducted. There are 1 infant school, 1 junior school and 3 other primary schools within a two mile walking distance of the development. The overall deficit including all schools within a two mile walking distance of the development is 46 pupil places.
- 8.67. The 15 deficit places created by this development cannot therefore be accommodated at nearby schools and a claim for an education contribution of 15 pupil places in the primary sector is justified. In order to provide the additional primary school places anticipated by the proposed development the County Council would request a contribution for the Primary School sector of £174,225.74.
- 8.68. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Hinckley Parks Primary School.

#### Libraries

- 8.69. The proposed development on Ashby Road, Hinckley is within 1.3km of Hinckley Library on Lancaster Rd being the nearest local library facility which would serve the development site.
- 8.70. It will impact on local library services in respect of additional pressures on the availability of local library facilities. The contribution is sought for children's stock provision e.g. books, audio books, etc. for loan and reference use to account for additional use from the proposed development. It will be placed under project no. HIN005. There are currently four other obligations under HIN005.
- 8.71. The proposed development at Ashby Road, Hinckley is likely to generate an additional 87 plus users and would require an additional 208 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.

- 8.72. 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 library facilities contribution would be £1,800 (rounded to the nearest £10).

#### Civic amenity

- 8.73. 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. A contribution is required 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.

- 8.74. 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 £2972.00 (rounded up to the nearest pound).

#### Health

- 8.75. The development is proposing 60 dwellings which based on the average household size of 2.42 per dwelling (2001 Census) could result in an increased patient population of 145. There are 5 practices within the town of Hinckley, 3 of which are within a mile of this development. These are:

- Centre Surgery, Hinckley Health Centre, Hill Street (List size 5601)
- Castle Mead Medical Practice, Hill Street (List size 10081)
- The Maples Family Medical Practice, Hill Street (List size 10465)

- 8.76. All three practices are currently experiencing increased patient demand and all report their premises are fully utilised in their current format. Castle Mead Medical Practice has seen their registered list rise by 7% in the past 5 years. The practice has confirmed they would be seeking funding to support the purchase of an additional equipment to support increased services to patients. The Maples Medical Practice would like to apply for funding to support the purchase of additional equipment to increase the range of services which can be provided to patients. Centre Surgery would like to purchase equipment for the Health Care Assistants Room to increase the range of services which can be provided to patients.

- 8.77. The CCG support the above requests as they would improve and increase access within each surgery. 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 and the contribution requested equates to £17,330.40

### Sustainable travel

- 8.78. In order to encourage sustainable travel to and from the site, achieve modal shift targets and reduce car use, Leicestershire County Council (Highways) have requested:
- £52.85 per dwelling to provide travel packs to inform new residents from first occupation what sustainable travel choices are in the surrounding area
  - 6 month bus passes to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car. Two bus passes should be provided per dwelling at £360 per pass
  - £3852 for improvements to the relocated bus stop to include raised and dropped kerbs to allow level access to support modern bus fleets with low floor capabilities and
  - £145 for information display cases at the relocated bus stop to inform new residents of the nearest bus services in the area

### CIL compliance

- 8.79. The request to pay the contributions must be considered alongside guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. This assessment has been undertaken and it is considered that all of the contribution requested, as set above, meet the tests and therefore are considered to be CIL compliant.

### Viability

- 8.80. 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.
- 8.81. 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 Programme grant and the remainder through financing to be paid back through the returns on rent and sale of shared ownership dwellings. Due to the development being 100% affordable housing, lower than market rents would be achieved which would not be sufficient to cover the cost of the development if the S106 contributions are sought.
- 8.82. The Viability Statement has been independently assessed by a third party instructed by the Local Planning Authority. The third party assessors concur with the findings of the viability statement and agree that it is not viable to pay the requested S106 contributions.
- 8.83. The proposed development would fail to provide the off-site infrastructure contributions sought. The occupants of the proposed development would be dependent on the existing infrastructure in the area surrounding area of Hinckley and the additional burden on the existing infrastructure must be balanced against any identified planning benefits of the scheme.
- 8.84. The application proposes to provide 60 affordable dwellings. The provision of 60 affordable houses in a sustainable location is considered to be a significant benefit



of this application. Whilst the development will not be able to deliver the contributions identified necessary to limit the impact of the development upon local infrastructure it is considered that the provision of 60 affordable houses outweighs this harm and therefore the proposed development would be in accordance with Policy DM3 of the SADMP.

#### Conditions

8.85. The proposed conditions are largely the same as those imposed by the planning inspector on the extant planning permission. Where additional detail relating to the previously imposed conditions has been submitted, some conditions have been revised to reflect this. Additionally, further conditions are proposed due to the wider consideration of planning matters for this full application as opposed to the extant outline permission which only considered layout. The proposed conditions would be as stringent as those imposed on the extant permission however variations to the conditions are explained as follows:

- Several conditions previously imposed on the extant planning permission required the submission of details prior to commencement of development. Where works do not relate to the initial phase of development for the infilling of the pit, phasing of conditions is proposed which allows the infilling works to commence prior to the submission of some information. This approach is consistent with national guidance which seeks to reduce the use of pre-commencement conditions.
- A condition was required by the inspector for a scheme and programme of works for the infill phase to be submitted and approved and specifying inert material to be used. It is not possible to specify a scheme and programme of works for the infilling phase due to the varying availability of material from other sites as the materials are excavated. The construction management plan, remediation statement and conditions restricting noise levels and number of deliveries provide sufficient control over the development to ensure there are no adverse impacts on the neighbouring amenity and the surrounding environment or the highway and that only inert material is used for the filling process.
- A condition was required by the inspector for the restoration and after-care of the site in the event that following the commencement of development the works are not completed. The inspector required that these works take place in the event that infill works have not been completed within two years of commencing development or if no fill material has been brought onto site in 12 months. These timescales have been extended to three years from commencement and 18 months if no material has been brought onto site. The timescales have been extended because, as noted above, the availability of the fill materials is yet unknown. It would be illogical to require restoration of the site if there was an unforeseen temporary shortage of material which is out of the applicant's control.

#### Other matters

8.86. Concern has been raised that the proposed development would result in the loss of the big pit which is a locally important heritage asset. This is not identified though as a locally important heritage asset. The big pit is not considered to be of historic importance that is worthy of retention and the principle of the infilling and loss of the pit has already been established through the extant outline planning permission.

## **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 located within the settlement boundary of Hinckley and the part of the site forms allocation HIN26PP. The application would provide dwellings above the number required by the allocation on the site. The development would be 100% affordable housing with a mix of tenures and would provide a mix of housing types. The development would be in accordance with Policy SA1 of the SADMP and Policies 1, 15 and 16 of the Core Strategy.
- 10.2. Notwithstanding the above, the proposed development would result in the loss of an open space which is protected by Policies DM8 and DM9 of the SADMP. However, the principle of the loss of the open space has already been established as acceptable through the extant outline planning permission.
- 10.3. 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 properties 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 reinstate the Sunnyside Brook watercourse, provide an associated flood plain basin and would adequately attenuate surface water runoff from the development. The proposal involves biodiversity enhancements through the reinstated watercourse to mitigate any adverse impacts from the loss of the existing undeveloped site. The proposed development is considered to be in accordance with Policies DM6, DM7, DM10, DM17 and DM18 of the SADMP.
- 10.4. A viability appraisal has demonstrated that it is not viable to deliver 100% affordable housing and the S106 contributions sought. The benefits of providing 60 affordable dwellings is considered to outweigh the harm caused by the lack of contributions towards local infrastructure and 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
    - Play and open space plan and maintenance scheme
  - Planning conditions outlined at the end of this report.

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

11.3. That the Planning Manager Development Management 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, details and materials:

40397/026 - Site Location Plan (received on 1 August 2017)

015/Site .Access/001 B - Site Access Plan (received on 24 October 2017)

40397/001O - Site Layout (received on 25 October 2017)

40397/011A - House Type Plots 9-10 (received on 25 October 2017)

40397/008C - House Type Plots 1-3 (received on 25 October 2017)

40397/009C - House Type Plots 4-5, 41-42 & 56-57 (received on 25 October 2017)

40397/010B - House Type Plots 6-8 (received on 25 October 2017)

40397/015A - House Type Plots 22-24 (received on 25 October 2017)

40397/016A - House Type Plots 25-26 (received on 25 October 2017)

40397/012C - House Type Plots 11-12, 16-17, 20-21, 43-44 & 54-55 (received on 25 October 2017)

40397/013B - House Type Plots 13-15 & 58-60 (received on 25 October 2017)

40397/014B - House Type Plots 18-19, 32-33 & 37-38 (received on 25 October 2017)

40397/022B - House Type Plots 39-40 & 52-53 (received on 25 October 2017)

40397/017B - House Type Plots 27-28 (received on 25 October 2017)

40397/018A - House Type Plots 29-31 (received on 25 October 2017)

40397/019B - House Type Plots 50-51 (received on 25 October 2017)

40397/020A - House Type Plots 34-36 & 47-49 (received on 25 October 2017)

40397/021A - House Type Plots 45-46 (received on 25 October 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. Prior to construction above damp course level of any of the dwellings hereby approved, representative samples of the types and colours of materials to be used on the exterior of the dwellings shall be submitted to and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

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

4. No development associated with the construction of any dwelling 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:
  - 1) Proposed finished levels or contours
  - 2) Means of enclosure
  - 3) Car parking layouts
  - 4) Other vehicle and pedestrian access and circulation areas
  - 5) Hard surfacing materials
  - 6) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
  - 7) Planting plans including replacement tree planting
  - 8) Written specifications
  - 9) Schedules of plants, noting species, plant sizes and proposed
  - 10) numbers/densities where appropriate
  - 11) 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.

5. The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

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

6. No development associated with the construction of any dwelling shall commence until such time as the 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.

7. No development shall commence until fencing for the protection of trees has been erected in accordance with the Tree Protection Plan in Appendix C of the submitted document entitled 'Arboricultural Impact Assessment' authored by Aspect Arboriculture and received by the Local Planning Authority on 1 August .2017. The fencing specification shall be as detailed in BS5837:2012. No works shall take place within the area inside that fencing without the written approval of 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.

8. The proposed development shall be carried out wholly in accordance with the Mitigation Measures and Ecological Enhancements as detailed in Section 6 of the submitted document entitled 'Ecological Appraisal' authored by Aspect Ecology and received by the Local Planning Authority on 01.08.2017 unless otherwise agreed in writing by the Local Planning Authority  
**Reason:** To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.
9. Prior to occupation of any dwelling hereby permitted, a Biodiversity Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The site shall be managed in accordance with the approved details on the plan.  
**Reason:** To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.
10. Prior to occupation of any dwelling hereby permitted, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of any dwelling hereby permitted.  
**Reason:** To ensure no light spill to the reinstated watercourse and areas used by bats for foraging and commuting to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.
11. Prior to occupation of any dwelling hereby permitted, a bat and nesting bird box scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of any dwelling hereby permitted.  
**Reason:** To mitigate the adverse impacts on bats and nesting birds arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.
12. If development has not commenced on site prior to July 2019, no development shall commence until updated Protected Species Surveys have been submitted to and approved in writing by the Local Planning Authority. The mitigation and enhancement measures as recommended by the updated protected species surveys shall be wholly implemented in accordance with recommended timescales.  
**Reason:** To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.
13. No development shall take place until a detailed scheme for the reinstatement of Sunnyside Brook and its flood plain corridor within the site has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with the indicative site plan on drawing ref 40397/001 revision O, drawing 063844-CUR-00-ZZ-DR-D-501 revision V03 and paragraph 6.3.4 of the flood risk assessment ref 063844-CUR-00-ZZ-RP-D-500\_FRADDS revision V02 dated 21 July 2017, provide a

minimum of 4,000m<sup>3</sup> compensatory flood storage, and include a programme for its implementation during the infilling engineering works and a management plan for its future maintenance. The watercourse shall be reinstated in accordance with the approved programme, and maintained thereafter in accordance with the approved management plan.

**Reason:** To ensure the development does not create or exacerbate flooding elsewhere by ensuring that the watercourse is reinstated and compensatory storage of flood water is provided to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

14. No development associated with the construction of the dwellings shall take place until the culverted watercourse through the easement in the land to the north of the site has been upgraded in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with paragraph 4.1.5 of Appendix D (flood risk assessment ref IP09\_313\_07C dated January 2010) within the flood risk assessment ref 063844-CUR-00-ZZ-RP-D-500\_FRADDS Revision V02 dated 21 July 2017.

**Reason:** To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

15. No development shall commence until a construction method statement to cover channel and bank works has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

- Details of temporary works, including the diversion of Sunnyside Brook, and fencing within the flood plain
- Methods to be used for all permanent and temporary channel and bankside water margin works
- Details of the location and storage of plant, materials and fuel, access routes and access to the banks
- Measures for the enhancement of the biodiversity potential of the reinstated watercourse
- Details of site supervision

**Reason:** To ensure the works do not create flooding, pollution or damage habitats to accord with Policies DM6 and DM7 of the Site Allocations and Development Management Policies DPD.

16. The finished floor levels of all dwellings shall be set no lower than 600mm above the design 100 year plus climate change flood level for the reinstated watercourse in accordance with paragraph 5.2.4 of the flood risk assessment ref 063844-CUR-00-ZZ-RP-D-500\_FRADDS Revision V02 dated 21 July 2017.

**Reason:** To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

17. No development or site clearance shall take place until a Biodiversity Method Statement has been submitted to and approved in writing by the local planning authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing

the works to be carried out showing how the environment will be protected during the works. The method statement shall include:

- Confirmation of how any fish found in the pool will be removed and transferred. This should be carried out by an approved contractor, familiar with this activity, who also have the permits in place to move fish. Any pumps should be screened with a maximum 10mm mesh screen;
- Pollution protection measures and 'stop' procedures that prevent disturbed silts being discharged to the culverted Sunnyside Brook which is within a Water Framework Directive (WFD) monitored Water Body (GB104028046640) which is currently at 'POOR' status for phosphate and fish;
- Confirmation of the biosecurity procedures that are in place to prevent transfer of any non-native organisms on Personal Protective Equipment (PPE) and equipment. Additional guidance can be found here: <http://www.nonnativespecies.org/checkcleandry/index.cfm>.

The works shall be carried out in accordance with the approved method statement.

**Reason:** To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

18. No development associated with the construction of any dwelling shall commence until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority.

**Reason:** To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

19. No development associated with the construction of any dwelling shall commence until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

20. No development associated with the construction of any dwelling shall commence 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.

21. No development associated with the construction of any dwelling shall commence until a scheme for the protection of the proposed dwellings from noise from the air handling units and the service yard at the supermarket on the land to the north has been submitted to and approved in writing by the

local planning authority. The scheme shall be implemented in full before any of the dwellings is occupied.

**Reason:** To protect the amenity of the future occupiers from noise sources to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

22. No development associated with the construction of any dwelling shall commence until a scheme for the protection of the proposed dwellings from noise from the louvre at the supermarket on the land to the north has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full before any of the dwellings is occupied.

**Reason:** To protect the amenity of the future occupiers from noise sources to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

23. No development shall take place until a scheme for the protection of neighbouring dwellings from noise during the infill engineering works has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all acoustic fences, and it shall be implemented in full before the engineering works, including the cut-to-fill phase, commence.

**Reason:** To protect the amenity of occupiers of neighbouring properties to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

24. The level of noise arising from the cut-to-fill and infilling operations shall not exceed the following limits at 3.5m from the most exposed façade of any adjacent dwelling: 55dB(A)LAeq,1h, except for temporary operations limited to a total of 88 days in any 12 months period for which the limit shall be 65dBLAeq,1hour.

**Reason:** To protect the amenity of occupiers of neighbouring properties to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

25. No development shall take place until an environmental management scheme, including an assessment of the impact of dust, vibration and lighting from the infill engineering works and the impact of dust, vibration, lighting and noise from the construction of the housing, has been submitted to and approved in writing by the local planning authority. The scheme shall include:

- The organisation and layout of the site and the control of operations to minimise the generation of dust, noise, vibration and light emissions.
- The control of dust emissions to prevent fugitive emissions leaving the site.
- The control of construction noise.
- The control of site lighting to prevent light spillage on adjacent dwellings.

**Reason:** To protect the amenity of occupiers of neighbouring properties and the surrounding environment to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

26. The infill engineering works, including the cut-to-fill phase, and the construction of the dwellings hereby permitted shall not be take place outside the following times: 0800 to 1730 hours from Monday to Friday and 0800 to



1300 hours on Saturdays. No infill engineering works, including the cut-to-fill phase, or construction work shall take place at any time on Sundays and public holidays.

**Reason:** To protect the amenity of occupiers of neighbouring properties and the surrounding environment to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

27. Notwithstanding the submitted document entitled Remediation Statement, prior to commencement of development a revised Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out wholly in accordance with the approved Remediation Statement. Prior to commencement of works associated with the construction of the dwellings, the Verification Report shall be submitted to and approved in writing by the Local Planning Authority

**Reason:** To ensure no contaminated materials are brought onto the site to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

28. 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.

29. Should the infill engineering works not be completed within three years of the commencement of development, or if no fill material has been brought onto site for a period of 18 months, a scheme shall be submitted to the local planning authority for the restoration and after care of the site. Following the approval in writing of the scheme, it shall be implemented in full and after-care carried out for the duration of the prescribed period.

**Reason:** In the interests of visual amenity and flood risk should the development fail to be completed to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

30. No development shall commence on the site until such time as an amended Construction Management Plan, including as a minimum, wheel cleansing facilities, 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 Construction Management Plan.

**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.

31. No dwelling hereby permitted shall be occupied until such time as the access arrangements shown on Lennon Transport Planning drawing number 015/Site Access/001 rev B, have been implemented in full.

**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 to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

32. No dwelling hereby permitted shall be occupied until such time as the internal layout arrangements shown on RG+P drawing number 40397/001 O have been implemented in full.

**Reason:** 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 general highway safety to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

33. No dwelling hereby permitted shall be occupied until such time as the offsite works, including the right turn lane and relocating the bus stop, shown on Lennon Transport Planning drawing number 015/Site Access/001 rev B have been implemented in full.

**Reason:** To mitigate the impact of the development, in the general interests of highway safety to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

34. The total number of deliveries of material for the infill engineering works shall not exceed a weekly limit of 275 over a 5.5 day working week, subject to a daily maximum of 75 from Monday to Friday and 37 on Saturdays. Records of all such deliveries shall be maintained on a daily basis and shall be made available to the Local Planning Authority within five working days of a request being made.

**Reason:** To ensure no adverse impact on highway safety to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

35. Prior to occupation of any dwelling hereby permitted, the footpath link between Ashby Road and public footpath U76 shall be completed and made available for use.

**Reason:** To ensure that there is convenient and safe access for walking and cycling to services and facilities to accord with Policy DM17 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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. Planning Permission **does not** give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to

the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>

3. If the roads within the proposed development are to be offered for adoption by the Local Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>

If an Agreement is not in place when the development is commenced, the Local Highway Authority will serve Advanced Payment Codes in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge **must** be made before building commences. Please email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk) in the first instance.

4. A Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
5. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.
6. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
7. Please note that both during construction, and post restoration, Sunnyside Brook should be protected from poor quality surface water from drives and drains. This can be ensured by adopting the best practice of Sustainable Urban Drainage (SUDs) in consultation with the Lead Local Flood Authority. General guidance and further ideas can be found at the following link [:http://www.wwt.org.uk/conservation/saving-wetlands-and-wildlife/influencing-action/guidance/sustainable-drainage-systems-suds/](http://www.wwt.org.uk/conservation/saving-wetlands-and-wildlife/influencing-action/guidance/sustainable-drainage-systems-suds/).

For any further advice on fisheries and/or biodiversity, the application is advised to contact their local Environment Agency Fisheries Officer, Tom Astley, on 01543 404868.

8. We would like to take this opportunity to present the following comments which relate solely to the protection of 'Controlled Waters'. Matters relating to human health should be directed to the relevant department of the local council.

Reference to the 1:50,000 map indicates that the site is located on the bedrock of the Mercia Mudstone formation, designated as a Secondary (B) Aquifer by the Environment Agency. Superficial deposits of the Wolston Clay layers are also indicated to be present, designated as an Unproductive

Aquifer. As such, the site is not considered to be particularly sensitive with respect to controlled waters receptors.

The proposed development site appears to have been the subject of past industrial activity which may pose a risk of pollution to 'Controlled Waters'. However, we have recently revised the priorities for deployment of the EA's technical resource towards focusing on:

The protection and improvement of the groundwater that supports existing potable drinking water supplies,

Groundwater within the most strategically important aquifers for future supply of potable drinking water or other environmental use.

As such we are unable to provide detailed site-specific advice relating to land contamination issues at this site. As an alternative, we would therefore advise that you refer to our published "Guiding Principles for Land Contamination" which outlines the approach we would wish to see adopted to managing risks to the water environment from this site.

We also recommend that you consult with your Environmental Health / Environmental Protection Department for further advice on generic aspects of land contamination management. Where planning controls are considered necessary we would recommend that you seek to integrate any requirements for human health protection with those for protection of the water environment. This approach is supported by Paragraph 109 of the NPPF.

The applicant / developer should refer to our document 'The Environment Agency's approach to groundwater protection', available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website ([www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)).

9. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice.
  - excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
  - treated materials can be transferred between sites as part of a hub and cluster project
  - some naturally occurring clean material can be transferred directly between sites.

10. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position Statement on the Definition of Waste: Development Industry Code of Practice and
- The Environmental regulations page on GOV.UK.

Contaminated soil that is or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

11. In relation to condition 18, the scheme shall include the utilisation of holding sustainable drainage (SuDS) techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. The proposals should also demonstrate the proposed allowance for exceedance flow and associated overland flow routing.

Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year return periods plus climate change.

12. In relation to condition 19, details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
13. In relation to condition 20, details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the system, and should also include procedures that

must be implemented in the event of pollution incidents within the development site.

Planning Committee 5 December 2017  
Report of the Planning Manager Development Management

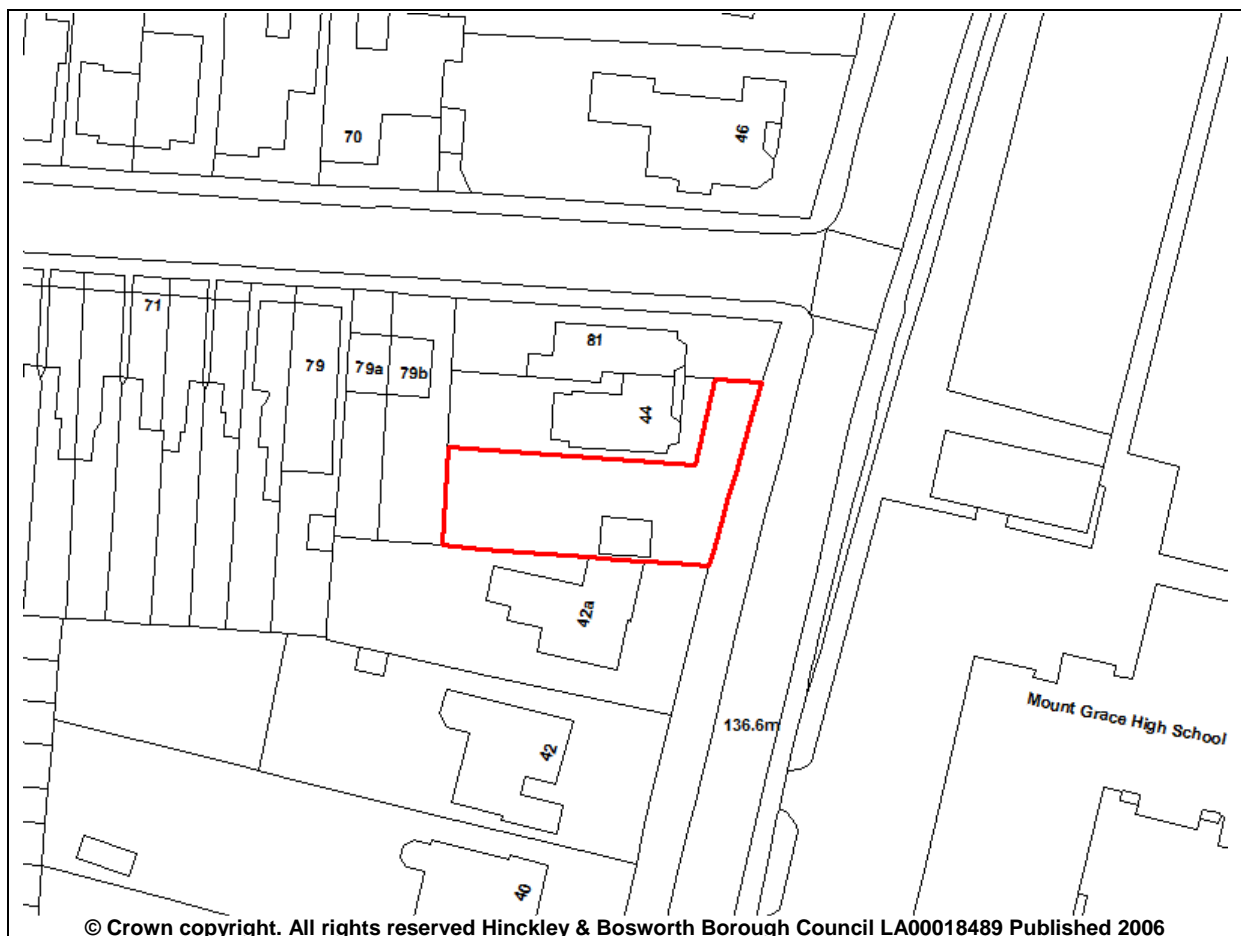


Hinckley & Bosworth  
Borough Council

Planning Ref: 17/01035/REM  
Applicant: Mr T Dukes  
Ward: Hinckley DeMontfort

Site: 44 Leicester Road Hinckley

Proposal: Approval of reserved matters (layout, scale, appearance and landscaping) of outline planning permission 16/00902/OUT for the erection of one dwelling



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Planning Manager, Development Management be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

2.1. This application seeks the approval of reserved matters of layout, scale, appearance and landscaping following the approval of outline planning permission (our ref: 16/00902/OUT) for the erection of one dwelling at 44 Leicester Road, Hinckley.

- 2.2. The application proposes one detached, one-and-a-half storey dwelling. The proposed dwelling would measure approximately 11.7 metres in depth and 8.7 metres in width, and would incorporate a pitched roof.
- 2.3. The proposed dwelling would comprise a lounge, kitchen/dining room, utility room, cloakroom, and a bedroom with an en-suite to the ground floor, as well as a bathroom two bedrooms to the first floor.
- 2.4. The dwelling would be set back from the main highway in line with the existing dwelling No. 44 Leicester Road. The separation distance of approximately 1 metre would be retained between the dwelling and the northern boundary, and approximately 0.7 metres from the southern boundary. A parking and turning area is proposed to the front of the property to serve the new dwelling. A private garden is proposed to the rear of the dwelling.
- 2.5. The proposal would also include the erection of a 1.8 metre high boundary fence to the north boundary of the site, to act as the boundary between the proposed dwelling and the existing No. 44 Leicester Road.
- 2.6. The proposed parking and turning area would be constructed from permeable rolled gravel finish.
- 2.7. A Design and Access Statement has been submitted as part of this application.

**3. Description of the Site and Surrounding Area**

- 3.1. The application site lies within the settlement boundary of Hinckley and measures approximately 0.12 hectares (including the access drive). It is currently used as a drive and garage.
- 3.2. Mount Grace High School is sited opposite the application site.
- 3.3. The site is enclosed by a screen hedge to the front boundary, and a low wall and hedge to the western boundary.
- 3.4. Outline planning permission for a residential development on the site was granted on 13 December 2016, which secured details of the access to the site. All other matters are sought within this application.

**4. Relevant Planning History**

16/00902/OUT	Residential development (outline - access only)	Outline planning permission granted	13.12.2016
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**5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. No representations have been received from members of the public for this application.

**6. Consultation**

- 6.1. No objections have been received from:  
Environmental Health (Pollution)  
Environmental Services (Drainage)
- 6.2. Street Scene Services (Waste) has raised no objections to the proposal, subject to a condition.
- 6.3. Leicestershire County Council (Highways) has referred the planning officer to their standing advice.



## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- 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 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
- Other matters

#### Assessment against strategic planning policies

8.2. Paragraphs 11 - 13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision taking and that the NPPF is a material consideration in determining applications.

8.3. The development plan in this instance consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP).

8.4. This application is for matters reserved under outline planning permission reference 16/00902/OUT. The outline application assessed the principle of residential development in this location, which was considered acceptable.

#### Design and impact upon the character of the area

8.5. 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. Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development. Paragraph 58 seeks to ensure that development responds to local character and reflects the identity of local surroundings.

8.6. There is a mix of individually designed, detached and semi-detached dwellings sited along Leicester Road. Dwellings are predominantly two storeys in scale; however, there are a number of dormer bungalows within the street. Therefore, the proposal would not be out of character with the surrounding properties, and would be in keeping with the street scene in this respect.

8.7. The proposed layout of the site indicates that the proposed dwelling would be set back a similar distance from the road as the existing properties to the north and south of the site. Additionally, the proposed dwelling would be sited in the middle of

the plot, with a driveway and parking area to the front of the site. This is consistent with the layout of the existing properties along the street.

- 8.8. The proposed panelled 1.8 metre high fence to be erected to the boundary between the proposed dwelling and No. 44 is considered appropriate, and would be in keeping with the existing fencing to the western boundary of the site. The existing hedge to the front boundary of the site would be retained in part, which would be in keeping with the existing front hedge boundaries along the street.
- 8.9. By virtue of the siting, layout, scale and design, the scheme would be in keeping with the character of the surrounding area.

#### Impact upon neighbouring residential amenity

- 8.10. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties. The NPPF in paragraph 17 seeks to ensure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.11. The neighbouring property to the north of the site is No. 44 Leicester Road, is a two storey semi-detached dwelling, with a similar plot size to the proposal. The neighbouring property to the south of the site is No. 42A Leicester Road, a detached two storey dwelling, with an attached single storey garage sited along the shared boundary with the application site.
- 8.12. The proposed dwelling would be sited on the plot so that it would not protrude past the front or rear building lines of these neighbouring properties. Further, the proposed dwelling would be one-and-a-half stories in scale. Therefore, it is not considered that the proposed dwelling would have any overbearing or overshadowing impacts to these neighbouring properties.
- 8.13. The proposed dwelling would result in the insertion of a ground floor window serving the kitchen/dining, that would look directly into a ground floor side facing window serving No. 44. To mitigate any overlooking impacts to this neighbouring property, a condition to ensure that this window is fitted with obscure glazing and would be fixed shut could be attached to any permission granted.
- 8.14. It is therefore considered that the proposed scheme would be in accordance with Policy DM10 of the SADMP.

#### Impact upon highway safety

- 8.15. Policy DM18 requires new development to provide an appropriate level of parking provision.
- 8.16. Leicestershire County Council (Highways) has referred to their standing advice for the application. The access would lead from the highway into a shared driveway, which would provide a shared turning and parking area to serve the proposed dwelling and the existing No. 44 Leicester Road. The driveway would provide access to a minimum of two parking spaces for the proposed dwelling, which is considered adequate parking provision for a 3-bedroom dwelling. Additionally, it would retain a minimum of two parking spaces for the existing No. 44 Leicester Road.
- 8.17. Therefore, The proposal is therefore considered to accord with Policy DM18 of the SADMP.

#### Other matters

- 8.18. Street Scene Services (Waste) has recommended a condition for the provision of a scheme for waste and recycling. This condition is not considered necessary, as

Leicester Road already serves existing residential properties, and therefore the collection of waste and recycling from this road already takes place.

## **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 proposal would be sustainable development and by virtue of the layout, scale, landscaping and appearance, would complement the character of the surrounding area and would not result in any adverse impacts on the amenities of the occupiers of neighbouring properties or highway safety. The proposal would be in accordance with Policies DM1, DM10 and DM18 of the SADMP, and the overarching principles of the NPPF. The scheme 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 Planning Manager, Development Management 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 otherwise than in complete accordance with the submitted application details, as follows: Drg No. KP/LRH/1 (Proposed Chalet Bungalow 44 Leicester Rd, Hinckley LE10 1LS) drawn to a scale of 1:100, and the submitted Design and Access Statement, received by the Local Planning Authority on 20 September 2017.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM10, and DM18 of the Site Allocation and Development Management Policies DPD.

2. Prior to the commencement of development hereby approved, representative samples of the types and colours of materials to be utilised on all external elevations, including details of fenestration and doors, shall be deposited with and approved in writing by the Local Planning Authority, and the development shall be constructed in accordance with the approved details and shall thereafter remain in place at all times and unless agreed in writing by the Local Planning Authority.

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

3. The ground floor window along the northern elevation serving the kitchen/dining room shall be obscure glazed and fixed shut, and shall remain so in perpetuity.

**Reason:** In the interests of the protection of the residential amenity of neighbouring properties, to accord with Policy DM10 of the 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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. The applicant is reminded that this approval of reserved matters must be read in conjunction with the associated outline planning permission reference 16/00902/OUT and the conditions and informatives contained therein.

Planning Committee 5 December 2017  
Report of the Planning Manager Development Management

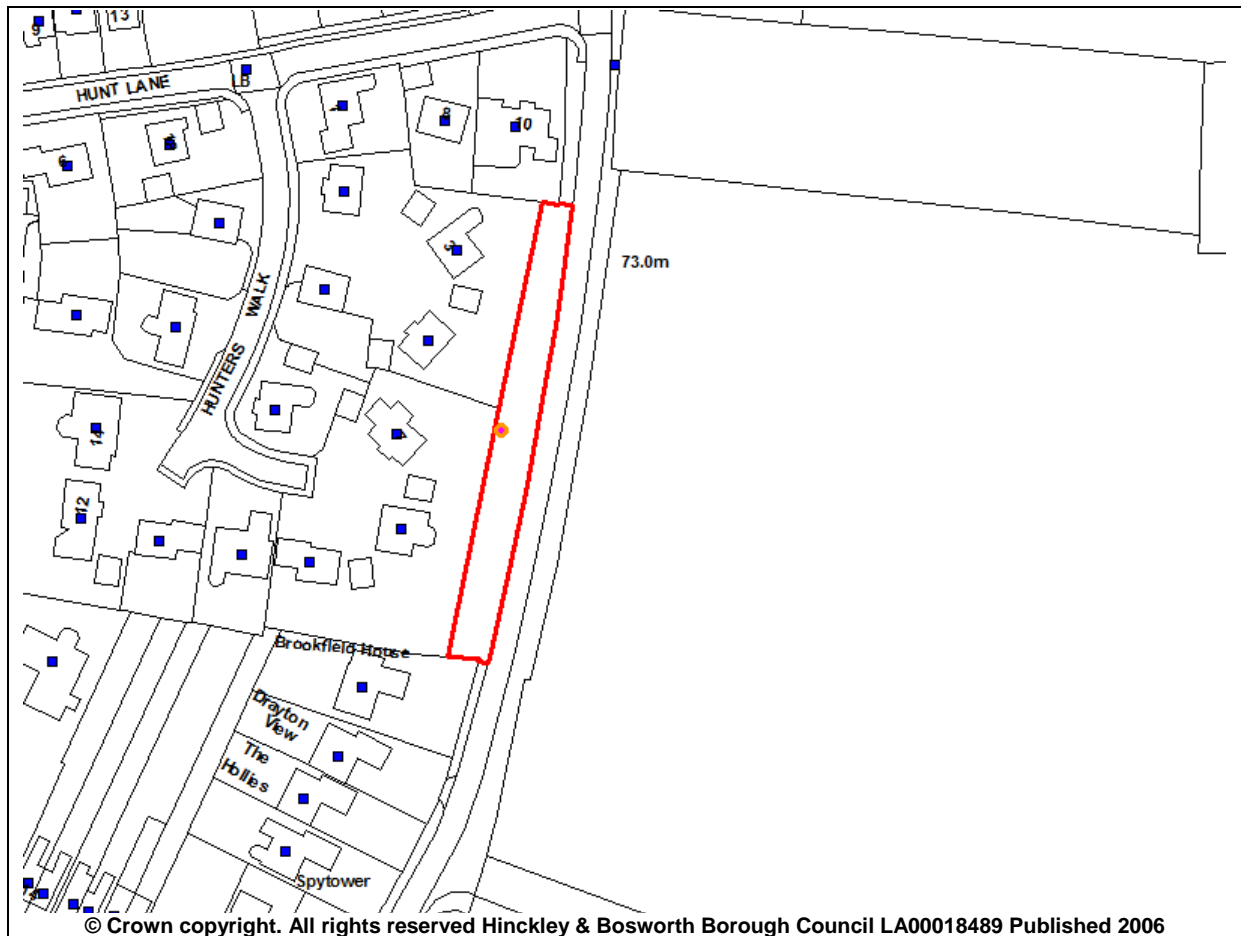


Hinckley & Bosworth  
Borough Council

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

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 Planning Manager Development Management 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.

2.3. This application was originally considered at Planning Committee on 10 October where Members were minded to refuse the application (contrary to officers' recommendation). Amended plans have been received from the applicant annotating the exact width of the ditch along the site and providing further clarification of land ownership. The width of the ditch varies from approximately 4.10 metres to a maximum of 6.5 metres with the proposed fence set approximately a distance of 1.5 metres from Kennel Lane.

### **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
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### **5. Publicity**

5.1. No additional publicity has taken place since this application was last presented at planning committee on 10 October 2017.

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

5.3. Nine 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. 14 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 additional consultation has taken place since this application was last presented at planning committee on 10 October 2017.

6.2. 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.

HBBC Drainage – The planting of a new native hedgerow at the top of the bank should not affect the infiltration capacity of the drainage ditch. It should be noted that responsibility for maintenance of the drainage ditch would transfer with any change of land ownership, unless other arrangement for maintenance of the ditch are put in place.

6.3. 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. In light of the absence of robust evidence of a direct connection between crime and the removal of the hedgerow, it is considered that 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 1.05 metre 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. It is assessed that the comments by HBBC Drainage demonstrate that the erection of the timber post and wire fence with the planting of native hedgerow in the ditch which is located to the rear of no's 3, 4, 7 and 8 Hunters Walk would not affect the capacity of the drainage ditch to act as a storm soak away area which was a concern expressed by several objectors.
- 8.17. 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.
- 8.18. 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.

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

### 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 Planning Manager Development Management 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:

Location Plan (scale 1:1000)

Landscape Plan (V4) (scale 1:50)

received by the Local Planning Authority on 1 November 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 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 existing 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](mailto: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.

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Planning Committee 5 December 2017  
Report of the Planning Manager, Development Management

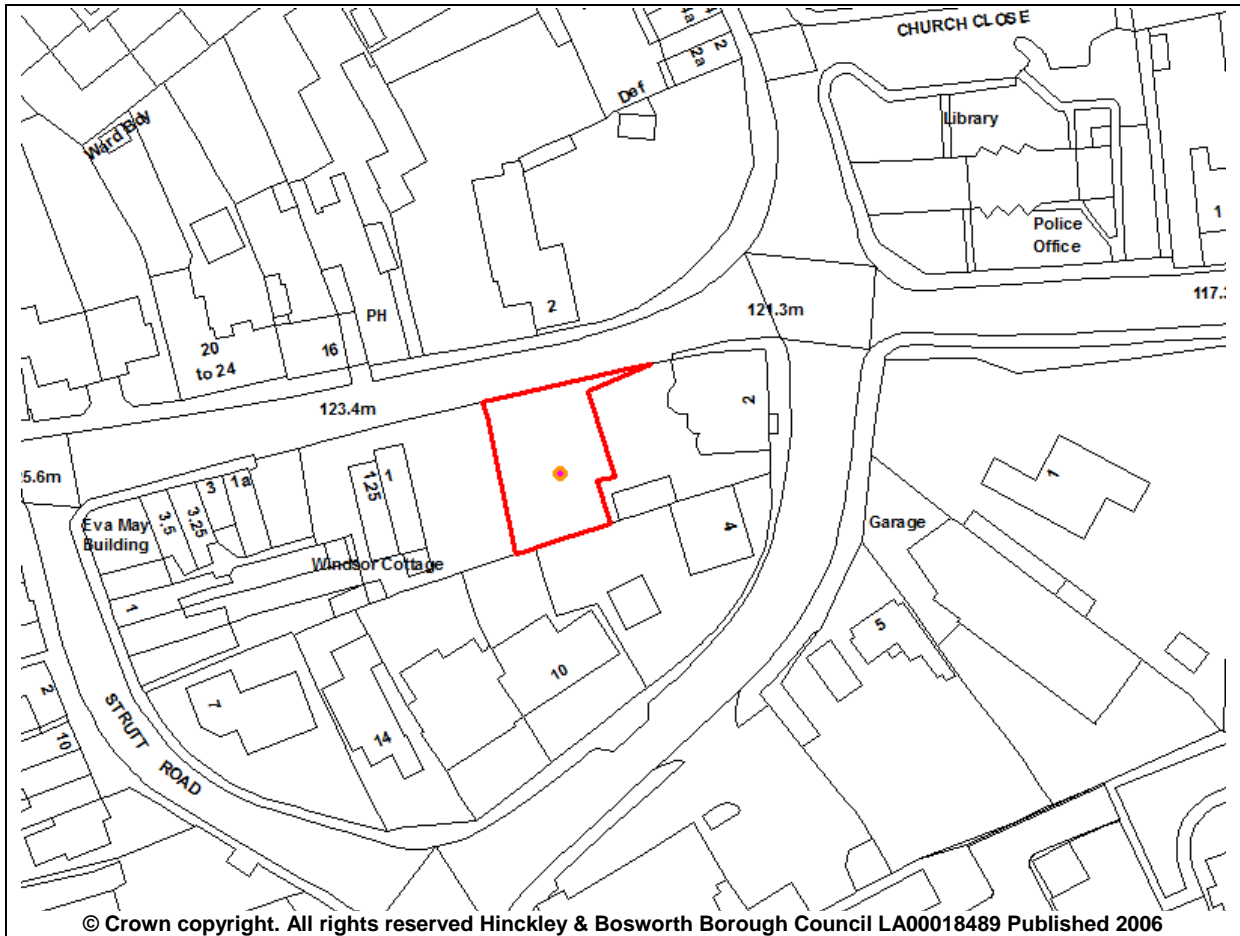
Planning Ref: 17/00943/REM  
Applicant: T Hughes  
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth  
Borough Council

Site: 2 Lutterworth Road Burbage

Proposal: Approval of reserved matters (appearance, landscaping, layout, scale) of outline planning permission 14/00982/OUT for one dwelling



## 1. Recommendations

1.1. Approve reserved matters subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Planning Manager, Development Management be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

2.1. This application seeks approval of the matters reserved (layout, scale, appearance and landscaping) by outline planning permission ref: 14/00982/OUT for the erection of a dwelling.

2.2. Amended plans have been submitted during the assessment of this application.

### **3. Description of the Site and Surrounding Area**

- 3.1. The site is within the settlement boundary of Burbage and within an area of mixed use comprising dwellings immediately to the east, south and west and the Red Lion to the north. Buildings in the immediate street scene vary in design although in the wider area there is predominance of buildings with low pitched roofs, low eaves and of a traditional design. Windsor Street slopes down from the west to the east.
- 3.2. The application site is approximately 305 square metres (0.0305 hectares) and formerly comprised a landscaped rear garden serving number 2 Lutterworth Road. Excavation works have commenced on-site to lower the level of the site.

### **4. Relevant Planning History**

14/00982/OUT      Erection of a dwelling (outline -      Approved      11.12.2014  
access only)

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. One letter of objection has been received commenting that:
- 1) There would be overlooking from the top light opener windows
  - 2) The boundary wall has been removed which was supposed to be retained

### **6. Consultation**

- 6.1. No objection, some subject to conditions, has been received from the following:  
Leicestershire County Council (Highways)  
Waste Services  
Environmental Health (Pollution)  
Environmental Health (Drainage)
- 6.2. Burbage Parish Council – initially objected to the proposed design due to the visual impact and impact on neighbouring amenity. However, their objection was removed following the submission of revised plans.

### **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 4: Development in Burbage
- 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
- Design and impact upon the character of the area
  - Impact upon neighbouring residential amenity
  - Impact upon highway safety
  - Other matters

### 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 application site is located within a mixed use area comprising dwellings immediately to the east, south and west and the Red Lion to the north. Buildings in the immediate street scene vary in design with a gable fronted two storey house to the west, a two storey house to the east and bungalows to the south. In the wider street scene of Windsor Street there is predominance of buildings with low pitched roofs, low eaves and of a traditional design.
- 8.4. Initially plans were submitted which proposed a two storey house with a gable on the front, hip on one side of the roof, relatively high eaves, a steep roof pitch and an enclosed porch on the front. Burbage Parish Council objected to the proposal. The initially submitted scheme was considered to be uncharacteristic of the area and due to the scale and appearance would have a dominating impact on the street scene.
- 8.5. Following concerns raised by the case officer, amended plans were submitted. The revised scheme drastically reduced the eaves height, pitch of the roof and width of the dwelling. The enclosed porch has been removed with only a canopy proposed. The windows at first floor would project above the eaves in a dormer style. The dwelling would include traditional features including a chimney, soldier courses surrounding the fenestration and pitched dormer windows and porch canopy. The bulk, mass and scale of the proposed dwelling is consistent with the traditional dwellings in the surrounding area. Despite the slightly elevated position of the dwelling due to Windsor Street being lower than the site, the proposal would not appear dominating in the street scene and complement the character of the area. There is an example of windows projecting above the eaves at first floor level immediately to the north of the application site in a similar pitched roof style. The dwelling would be set back approximately 3.7m from the carriageway. Dwellings in the street scene primarily abut the footpath, where applicable. However, the dwelling immediately to the west of the application site is similarly set back to the proposal and a set back must be achieved to allow for vehicle turning space.
- 8.6. There are varied boundary treatments in the surrounding area including brick and stone walls, hedgerows and timber fences. The applicant is proposing a 1.8m high brick wall along the eastern boundary which will be visible in the street scene with close boarded fencing surrounding the rear garden. Hardstanding along the side and of the dwelling shall comprise either block or brick paving which will provide interest to the plot and low level planting is proposed along the frontage. The proposed landscaping would enhance the character of the area.
- 8.7. The layout, scale, appearance and landscaping of the development for a proposed dwelling would complement the character and appearance of the area in accordance with Policy DM10 of the SADMP.

### Impact upon neighbouring residential amenity

- 8.8. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties. The application site is bound by the following dwellings: 1 Windsor Street to the west, Nos 2 and 2a Lutterworth Road to the east, Nos 4a, 4b and 10 Lutterworth Road to the south.
- 8.9. No 1 Windsor Street has windows in the side elevation serving habitable rooms which face the application site. The dwelling would be sited approximately 13m from the windows. Due to the elevated position of No 1 and the relatively low height of

the proposed gable end that the windows would face, it is considered there would not be an overbearing impact on No 1. There are two windows in the side facing elevation of the proposed dwelling; one serving a bathroom which would be obscure glazed with a top opener above 1.7m above finished floor level and the other second would be a high level window above 1.7m above finished floor level. The obscure glazing will prohibit any overlooking of the neighbouring property. Top openers are proposed 1.7m above finished floor level which is recognised nationally as sufficiently high to avoid views which could have an adverse overlooking impact.

- 8.10. The proposed eastern gable would be approximately 17.5m from the rear elevation of Nos 2 and 2a Lutterworth Road. This separation distance is sufficient to avoid an adverse overbearing impact on the rear facing windows. Additionally, it is considered that there would not be an overbearing impact on the rear garden serving the residential unit due to separation from the common boundary. There are no windows proposed in the eastern elevation of the proposed dwelling.
- 8.11. The proposed dwelling would have a rear garden depth of approximately 7.5m and the dwelling would be sited on land lower than the dwellings to the south; Nos 4a, 4b and 10 Lutterworth Road. Therefore, it is considered the proposed dwelling would not have an overbearing impact on the rear amenity space or rear facing windows. The rear facing windows of the proposed dwelling will be obscure glazed and fixed shut with top openers. As above, the top openers are proposed 1.7m above floor level and therefore will not have an adverse overlooking impact.
- 8.12. It is considered that the proposed dwelling would not have an adverse impact on the amenity of neighbouring occupiers in accordance with Policy DM10 of the SADMP.

#### Impact upon highway safety

- 8.13. 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.
- 8.14. The proposed access onto Windsor Street was assessed and considered acceptable as part of the outline planning permission. The layout of the site provides manoeuvring space to allow a vehicle to egress the site in a forward gear and maintains appropriate visibility splays due to the set back of the dwelling. The dwelling would be served by two car parking spaces which is sufficient to serve a three bedroom dwelling in this location within Burbage.
- 8.15. It is considered that the layout of the site allows for sufficient manoeuvring space and off-street car parking in accordance with Policies DM17 and DM18 of the SADMP.

#### Other matters

- 8.16. By virtue of the proportion of the site to be developed, differing land levels and proximity to neighbouring dwellings, it is considered reasonable and necessary to remove permitted development rights of the dwelling for extensions, alteration and ancillary outbuildings.

### **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 principle of development of a single dwelling on the application site was established through outline planning permission ref: 14/00982/OUT.

10.2. The layout, scale, appearance and landscaping of the dwelling would complement the character and appearance of the surrounding area and would not give rise to harmful impacts on neighbouring amenity. The layout incorporates sufficient spaces for vehicles to park and manoeuvre. The proposed development is in accordance with Policies DM1, DM10, DM17 and DM18 of the SADMP.

## 11. Recommendation

11.1. Approve reserved matters subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Planning Manager, Development Management 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, details and materials:

1464-P-10B - Site Location Plan (received on 8 November 2017)

1464-P-10B - Block Plan (received on 8 November 2017)

1464-P-02 - Street Scene (received on 17 November 2017)

1464-P-01J - Site, Floor and Elevation Plans (received on 17 November 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.

2. Notwithstanding the provisions of Classes A, B and C 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 dwelling hereby approved shall not be extended or altered 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 does not adversely impact on neighbouring amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

3. Prior to occupation of the dwelling hereby permitted, the windows annotated as being obscure glazed on drawing No. 464-P-01\_K, shall be fitted with a minimum of Level 3 obscure glazed glass on the Pilkington Scale and shall be retained as such in perpetuity.

**Reason:** To ensure that there are no adverse overlooking impacts on the amenity of the occupiers of the neighbouring dwellings to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

4. The soft landscaping as shown on drawing no. 1464-P-01J shall be carried out in the first planting season following occupation of the dwelling hereby permitted. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the 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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 24.11.17

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	RWR	17/00115/FUL (PINS Ref 3189810)	IH	Mr K Saigal Centre Estates 99 Hinckley Road Leicester	Land Off Paddock Way Hinckley	Awaiting Start Date	
	AC	17/00852/HOU (PINS Ref 3189344)	WR	Mr & Mrs C Elleman 20 Turner Drive Hinckley	20 Turner Drive Hinckley	Valid Appeal Awaiting Start Date	15.11.17
	HK	17/00531/OUT (PINS Ref 3188948)	PI	Gladman Developments Ltd Gladman House Alexandria Way Congleton Cheshire CW12 1LB	Land East Of The Common Barwell	Awaiting Start Date	
	CB	17/00870/HOU (PINS Ref 3188941)	WR	Mrs Lorna Beasley 32 Barton Road Barlestone	32 Barton Road Barlestone (Two storey rear extension and first floor front extension)	Appeal Valid Awaiting Start Date	13.11.17
	TW	17/00520/HOU	WR	Stephen John Gray 1 Elm Close Groby	1 Elm Close Groby (Erection of boundary fence (retrospective))	Appeal Valid Awaiting Start Date	14.11.17
	CB	17/00561/HOU (PINS Ref 3188266)	WR	Mr & Mrs Witham 5 Lancaster Avenue Market Bosworth	5 Lancaster Avenue Market Bosworth Nuneaton (Single storey side, rear and front extensions, detached single garage and replacement boundary wall)	Appeal Valid Awaiting Start Date	02.11.17
		17/00930/TPO (PINS Ref 3187799)	WR	Mr Andrew Baxter 4 Market Mews Market Bosworth	4 Market Mews Market Bosworth (Removal of overhanging branches on western side of tree overhanging the garden of 4 Market Mews. This is further works to the permission granted and executed during winter 2016/17)	Awaiting Start Date	

	RWR	17/00167/FUL (PINS Ref 3187222)	WR	Mr Jerzy Prusinski 5 Meadow Lane Stanton under Bardon	Land Meadow Lane Stanton Under Bardon Coalville (Erection of detached house and	Appeal Valid Awaiting Start Date	23.10.17
	RWR	17/00169/FUL (PINS Ref 3186840)	WR	Mr Jerzy Prusinski 5 Meadow Lane Stanton under Bardon	Land Meadow Lane Stanton Under Bardon Coalville (Erection of detached house and detached double garage (Plot 3))	Appeal Valid Awaiting Start Date	16.10.17
	RWR	17/00168/FUL (PINS Ref 3186837)	WR	Mr Jerzy Prusinski 5 Meadow Lane Stanton under Bardon	Land Meadow Lane Stanton Under Bardon Coalville (Erection of detached house and detached double garage (Plot 2))	Appeal Valid Awaiting Start Date	16.10.17
	CA	17/00048/S215S (PINS Ref 3185061)	WR	Mr Balbir Singh	Former Police Station Upper Bond Street Hinckley	Awaiting Start Date	
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 (Removal of group of crack willow trees)	Start Date Awaiting Decision	22.09.17
17/00023/PP	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))	Start Date Statement of Case Final Comments	02.11.17 07.12.17 21.12.17
	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	

17/00021/ADV	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)	Start Date Awaiting Decision	30.10.17
17/00022/COND	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)	Start Date Statement of Case Final Comments	02.11.17 07.12.17 21.12.17
	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	

**Decisions Received**

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))	<b>DISMISSED</b>	<b>27.10.17</b>
17/00020/PP	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)	<b>WITHDRAWN</b>	<b>01.11.17</b>

**Rolling 1 April 2017 - 24 November 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
19	4	14	0	1	4	0	14	0	0	0	0	0	0

**Enforcement Appeal Decisions**

<b>No of Appeal Decisions</b>	<b>Allowed</b>	<b>Dismissed</b>	<b>Split</b>	<b>Withdrawn</b>
0	0	0	0	0