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Hinckley & Bosworth
Borough Council

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

Date: 29 December 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, 9 JANUARY 2018 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

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

Rebecca Owen
Democratic Services Officer

Fire Evacuation Procedures

Council Chamber (De Montfort Suite)

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

Abusive or aggressive behaviour

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

Recording of meetings

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

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

PLANNING COMMITTEE - 9 JANUARY 2018

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
2. MINUTES (Pages 1 - 4)
To confirm the minutes of the meeting held on 5 December 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 - 36)
Application for erection of 60 dwellings including engineering infill operation and associated works.
8. 17/00149/FUL - BULL IN THE OAK FARM, BOSWORTH ROAD, BULL IN THE OAK, CADEBY (Pages 37 - 52)
Application for removal of existing residential and agricultural buildings for the erection of five new dwellings and associated works.
9. 17/00302/FUL - LAND OFF BRASCOTE LANE, CADEBY (Pages 53 - 66)
Application for erection of a farmyard and agricultural worker's dwelling.
10. 17/01047/HOU - 80 MAIN STREET, DESFORD (Pages 67 - 74)
Application for removal of a section of wall to create a vehicular access and erection of gates.
11. APPEALS PROGRESS (Pages 75 - 78)
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

5 DECEMBER 2017 AT 6.30 PM

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

In accordance with Council Procedure Rule 11 Councillors Mr RG Allen and Mr MA Hall were also in attendance.

Officers in attendance: Gemma Dennis, Rebecca Owen, Michael Rice and Nicola Smith

237 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Taylor with the substitution of Councillor Bray authorised in accordance with council procedure rule 10.

238 MINUTES

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

RESOLVED – the minutes of the meeting held on 7 November 2017 be confirmed and signed by the chairman.

239 DECLARATIONS OF INTEREST

Councillors Bray, Cope, Crooks, Hodgkins, Hollick and Witherford declared a personal interest in application 17/01035/REM as the agent was a colleague.

240 DECISIONS DELEGATED AT PREVIOUS MEETING

It was noted that all decisions had been issued with the exception of 15/01221/HYB, for which the negotiations on the S106 agreement were still ongoing.

241 17/00765/FUL - THE BIG PIT, LAND TO THE REAR OF 44 TO 78 ASHBY ROAD, ASHBY ROAD, HINCKLEY

Application for erection of 60 dwellings including engineering infill operation and associated works.

Members raised a number of concerns about the potential impact of the site. These included loss of open space, its non-viability, overdevelopment, loss of amenity, noise/vibration, unsustainability and several members indicated that they would propose refusal of the application.

In response, officers emphasised the following:

- That the site had an extant outline planning permission for residential development together with the infilling of the pit which had been granted on appeal in December 2014 and which was a significant material planning

- consideration which established the loss of the open space, along with the filling of the pit and redevelopment of the site for residential use
- That Leicestershire County Council had refused the appealed application in 2014 and had had costs awarded against it for not pursuing one of the reasons for refusal in relation to flood risk
 - That the main considerations relating to the development of the site, namely drainage and flooding, highway safety and traffic movement, nature conservation interests and amenity (as a result of the proposed engineering works) had been taken into account by the Inspector at the 2014 appeal who considered that, subject to appropriate safeguards and mitigation measures which would be secured by conditions, the development would not unacceptably worsen the living conditions of neighbours or future residents and it would not adversely affect nature conservation interests
 - That these same considerations applied in relation to the current application and the same conditions imposed by the Inspector would be re-imposed leading to the same conclusion on the impact of the development
 - That, specifically and significantly, no objections to the current proposal had been received (subject to the imposition of appropriate conditions) from the following statutory and other consultees:
 - Environment Agency
 - Leicestershire County Council (drainage)
 - Leicestershire County Council (highways)
 - Leicestershire County Council (Ecology)
 - HBBC Environmental Health (pollution)
 - HBBC Environmental Health (drainage)
 - That the proposal was for the provision of 100% affordable housing which itself was a significant policy consideration for the committee
 - That there were no substantive and material planning grounds for refusing the application and that a refusal would be likely to be lost on appeal with a consequent award of costs against the council.

Notwithstanding this advice from officers, refusal of the application was proposed by Councillor Kirby and seconded by Councillor Hodgkins. The committee was advised that, in accordance with paragraph 2.12 of the Planning Committee procedure rules, any such motion shall be deemed to be a motion of “minded to refuse” and that consideration of the application would be deferred to the next meeting of the committee.

Councillor Witherford, along with two other councillors, requested that voting on this motion be recorded.

The vote was taken as follows:

Councillors Boothby, Bray, Cook, Cope, Crooks, Hodgkins, Hollick, Kirby, Roberts, Smith, Witherford and Wright voted FOR the motion (12);

Councillors Ladkin, Surtees, Sutton and Ward voted AGAINST the motion (4).

The motion was therefore declared CARRIED and it was

RESOLVED – the committee be minded to refuse permission in accordance with paragraph 2.12 of the procedure rules.

Councillor Bray left the meeting at 7.55pm.

242 17/01035/REM - 44 LEICESTER ROAD, HINCKLEY

Application for approval of reserved matters (layout, scale, appearance and landscaping) of outline planning permission 16/00902/OUT for the erection of one dwelling.

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

RESOLVED – permission be granted subject to the conditions contained in the officer's report.

243 17/00776/FUL - 7 HUNTERS WALK, WITHERLEY, ATHERSTONE

Application for erection of a timber post and wire fence adjacent to Kennel Lane (resubmission of 17/00310/FUL).

It was noted that members had been minded to refuse this application at the meeting on 10 October 2017 and it was therefore before the committee tonight for a decision.

Councillor Wright left the meeting at 8.03pm.

Notwithstanding the officer's recommendation that permission be granted, members felt that the fence was detrimental to visual amenity due to the materials used and that it would enclose an area that was currently open. It was moved by Councillor Cook and seconded by Councillor Crooks that the application be refused for this reason. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – permission be refused due to being detrimental to visual amenity.

Councillor Hall left the meeting at 8.10pm.

244 17/00943/REM - 2 LUTTERWORTH ROAD, BURBAGE

Application for approval of reserved matters (appearance, landscaping, layout, scale) of outline planning permission 14/00982/OUT for one dwelling.

On the motion of Councillor Sutton, seconded by Councillor Crooks, it was

RESOLVED – permission be granted subject to the conditions contained in the officer's report.

245 APPEALS PROGRESS

Members received an update on progress in relation to various appeals. It was moved by Councillor Crooks, seconded by Councillor Boothby and

RESOLVED – the report be noted.

(The Meeting closed at 8.15 pm)

CHAIRMAN

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Planning Committee 9 January 2018
Report of the Planning Manager, Development Management

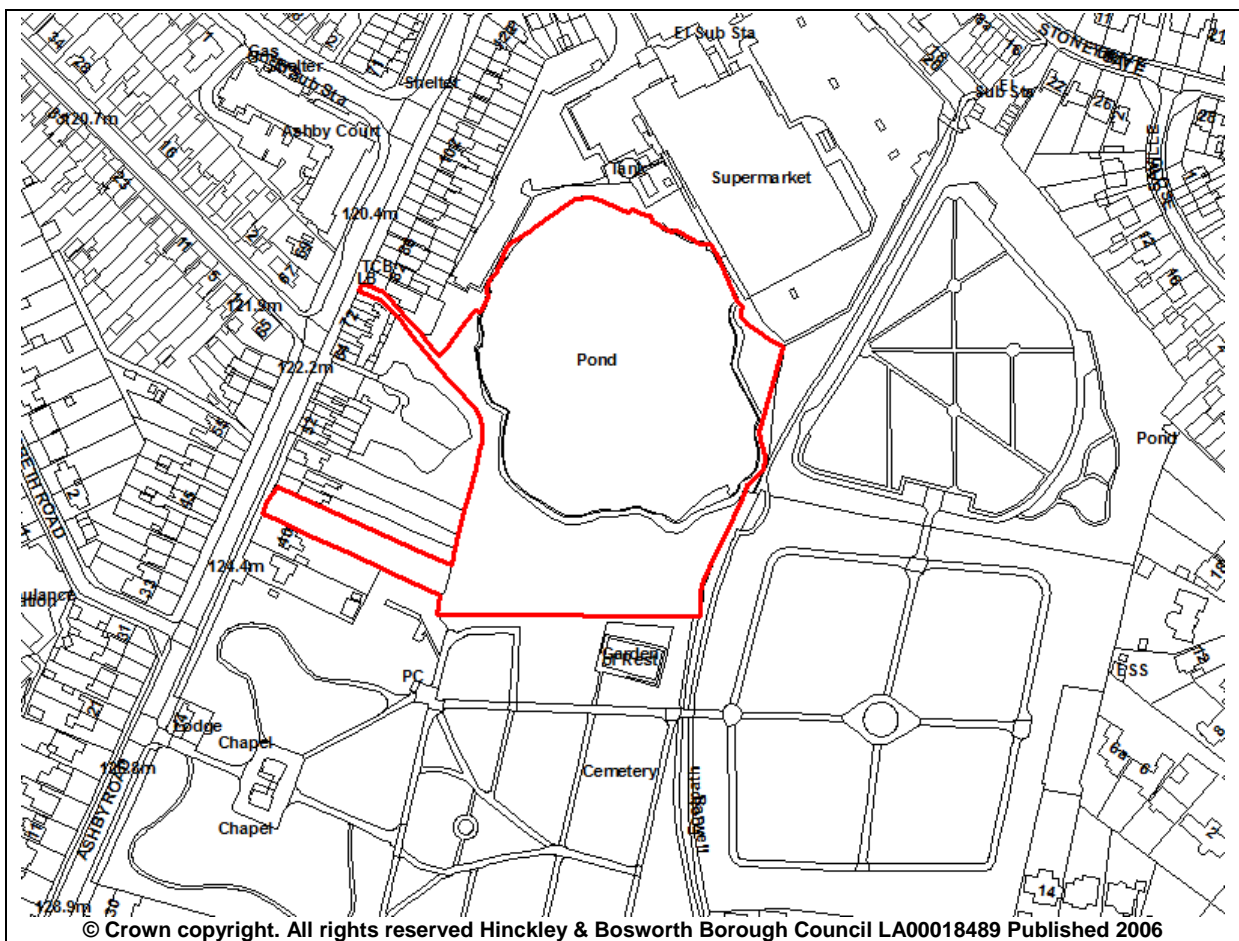


Hinckley & Bosworth
Borough Council

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
 - Sustainable surface water drainage system 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

17/01180/C	Approval of the following reserved matters: Appearance, Landscaping, Layout and Scale for the importation of material and in - fill engineering works to former clay pit to enable residential development (County Council Ref: 2017/0328/LCC)	Pending consideration	
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	Approved	11.01.2010

	for outline residential development		
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 and has been 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

- Procedural note
- 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

Procedural note

- 8.2. This application was presented to the planning committee on Tuesday 5 December. At the meeting Members raised a number of concerns about the potential impact of

the site. These included loss of open space, its non-viability, overdevelopment, loss of amenity, noise/vibration, unsustainability and several members indicated that they would propose refusal of the application.

8.3. In response, officers emphasised the following:

- That the site had an extant outline planning permission for residential development together with the infilling of the pit which had been granted on appeal in December 2014 and which was a significant material planning consideration which established the loss of the open space, along with the filling of the pit and redevelopment of the site for residential use
- That Leicestershire County Council had refused the appealed application in 2014 and had had costs awarded against it for not pursuing one of the reasons for refusal in relation to flood risk
- That the main considerations relating to the development of the site, namely drainage and flooding, highway safety and traffic movement, nature conservation interests and amenity (as a result of the proposed engineering works) had been taken into account by the Inspector at the 2014 appeal who considered that, subject to appropriate safeguards and mitigation measures which would be secured by conditions, the development would not unacceptably worsen the living conditions of neighbours or future residents and it would not adversely affect nature conservation interests
- That these same considerations applied in relation to the current application and the same conditions imposed by the Inspector would be re-imposed leading to the same conclusion on the impact of the development
- That, specifically and significantly, no objections to the current proposal had been received (subject to the imposition of appropriate conditions) from the following statutory and other consultees:
 - Environment Agency
 - Leicestershire County Council (drainage)
 - Leicestershire County Council (highways)
 - Leicestershire County Council (Ecology)
 - HBBC Environmental Health (pollution)
 - HBBC Environmental Health (drainage)
- That the proposal was for the provision of 100% affordable housing which itself was a significant policy consideration for the committee
- That there were no substantive and material planning grounds for refusing the application and that a refusal would be likely to be lost on appeal with a consequent award of costs against the council.

8.4. Notwithstanding this advice and recommendation from officers, refusal of the application was proposed by Councillor Kirby and seconded by Councillor Hodgkins. The committee was advised that, in accordance with paragraph 2.12 of the Planning Committee procedure rules, any such motion shall be deemed to be a motion of "minded to refuse" and that consideration of the application would be deferred to the next meeting of the committee. A recorded vote was taken and the motion of 'minded to refuse' was carried.

- 8.5. In accordance with the above, this application is being presented to the planning committee for a second time. It should be noted that, subsequent to the last planning committee, an additional response has been received from Leicestershire County Council (Drainage) which is detailed at paragraph 8.51.

Site history

- 8.6. 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.
- 8.7. 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.
- 8.8. 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.
- 8.9. 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

- 8.10. 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.
- 8.11. 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.
- 8.12. 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.
- 8.13. Although, without further consideration, the proposal would result in a loss of open space protected by Policies DM8 and DM9 of the SADMP, There is, significantly,

and materially, 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 therefore already been established as a result of this 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.

- 8.14. 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

- 8.15. 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.
- 8.16. 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.
- 8.17. 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.
- 8.18. 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

- 8.19. 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.
- 8.20. 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.
- 8.21. 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.
- 8.22. 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.

- 8.23. 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.
- 8.24. 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.
- 8.25. 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.
- 8.26. 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.
- 8.27. 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.
- 8.28. 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

- 8.29. 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

- 8.30. 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

- 8.31. 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.
- 8.32. 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.
- 8.33. 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.
- 8.34. 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

- 8.35. 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.
- 8.36. 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.
- 8.37. 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.
- 8.38. 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.
- 8.39. 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.
- 8.40. 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.
- 8.41. 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

- 8.42. 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.
- 8.43. 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.
- 8.44. 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.
- 8.45. 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.
- 8.46. 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
- 8.47. 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'.

- 8.48. 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).'

- 8.49. 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.

- 8.50. With regards to the long term maintenance of the reinstated watercourse and compensatory flood storage area, it is not possible for the Borough Council to calculate an accurate contribution towards the long term maintenance of the sustainable urban drainage features on-site which would allow them to request a right to adopt the space following the works. Therefore, the Borough Council will not seek to adopt the feature and an associated maintenance contribution is not sought. A condition is recommended which requires the submission of details in relation to the long term maintenance of the sustainable surface water drainage system. The submitted details would need to be approved by the local planning authority and implemented in perpetuity by a management company appointed, and paid for, by the applicants/owners. To enable easier enforcement of the approved maintenance scheme, it is considered reasonable and necessary to secure the maintenance scheme through a S106 agreement.

- 8.51. 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.

8.52. Leicestershire County Council (Drainage) as the lead local flood authority were also consulted on the additional information and made the following comments:

- The site (being an old clay brick works) according to the BGS mapping is over clay with no readily productive superficial deposits.
- The Flood Risk Assessment (FRA) accounts for inflows from a spring to the south. This area to the south has superficial deposits of sands and gravels and as such assumed that perched water over the clay is issuing from this point.
- No evidence of other springs in the immediate area has been found on current or available historical mapping.
- The letter from 'The Big Pit Resistance Group' notes that the original location for the Hinckley Mineral Baths is now the Ashby Tavern. It is understood that this site pre-dates the Big Pit, however other water filled pits were present at this time and have since been drained/filled suggesting that previous similar pits have been successfully filled in this area.
- Based on available evidence, we can only assume that the water to the Hinckley Mineral Baths was from the spring identified and accounted for within the FRA. It is likely that the changes in configuration of the waterbodies in the area over time diverted the route of this spring away from the historic location of the Hinckley Mineral Baths.
- The FRA seeks to make a robust assumption of the flows from the identified spring and accounts for and proposes to maintain these flows through the site. In addition, an assumption of the greenfield flows intercepted by the ditch which conveys flows from the spring to the north has been made and accounted for within the proposals.
- The large water body within the pit is ultimately assumed as hard standing due to the way rainfall on the pit would be accounted for. Based on this assumption, the theoretical hard standing area of the site post-development would reduce, and therefore potentially reducing the volume of run-off and peak rate of flow to the downstream catchment. This assumption is based on minimal infiltration within the pit itself, which is likely a reasonable assumption based on the geology and the fact that the pit has not drained, but filled over time. Therefore the proposals have the potential to reduce downstream flood risk.
- BGS records of a well borehole south of the site which goes to a depth of 60m suggest groundwater at 30m below ground level (BGL).
- Borehole records to the northwest within clay at a lower ground level suggest only minor water seepage within some boreholes.
- Ground investigation details within the FRA appendices suggest groundwater is at significant depth although evidence of some perched groundwater was found at shallow depth at one location. This is likely due to the immediate proximity of the Big Pit to this particular borehole. Most boreholes/trial pits undertaken found no evidence of groundwater within them.

- The Preliminary Flood Risk Assessment (PFRA) identifies the site as having less than 25% susceptibility to groundwater flooding (low risk).
 - The FRA recommends groundwater monitoring for 3 months as part of gas monitoring, however we would question the reliability of any results obtained as the localised groundwater characteristics are likely to be altered (positively) as a result of draining and filling the pit.
 - The submitted FRA further suggests setting building floor levels based on recorded groundwater levels where appropriate.
- 8.53. 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.
- 8.54. 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

- 8.55. 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.
- 8.56. 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 badger 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.
- 8.57. 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 commented 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.
- 8.58. 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.
- 8.59. 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

- 8.60. Policy DM7 of the SADMP seeks to ensure appropriate remediation of contaminated land in line with minimum national standards is undertaken.
- 8.61. 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.
- 8.62. 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.
- 8.63. 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

- 8.64. Policy 19 of the Core Strategy identifies requirements for access to green space and play provision for occupiers of residential developments.
- 8.65. 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.
- 8.66. 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.
- 8.67. 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.
- 8.68. 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.
- 8.69. 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.
- 8.70. 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

- 8.71. 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

- 8.72. 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.

8.73. 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.

8.74. 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

8.75. 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.

8.76. 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.

8.77. 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.

8.78. 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

8.79. 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.

8.80. 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

8.81. 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)

- 8.82. 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.
- 8.83. 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

- 8.84. 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

- 8.85. 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

- 8.86. 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.
- 8.87. 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.

- 8.88. 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.
- 8.89. The proposed development would not provide the off-site infrastructure contributions sought. Any additional burden on the existing infrastructure must be balanced against any identified planning benefits of the scheme.
- 8.90. 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 considered 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

- 8.91. 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

- 8.92. 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 any designations 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

dwelling 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
 - Sustainable surface water drainage system 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 1 August 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 4,000m³ 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 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 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/>.

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).

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 9 January 2018
Report of the Planning Manager, Development Management

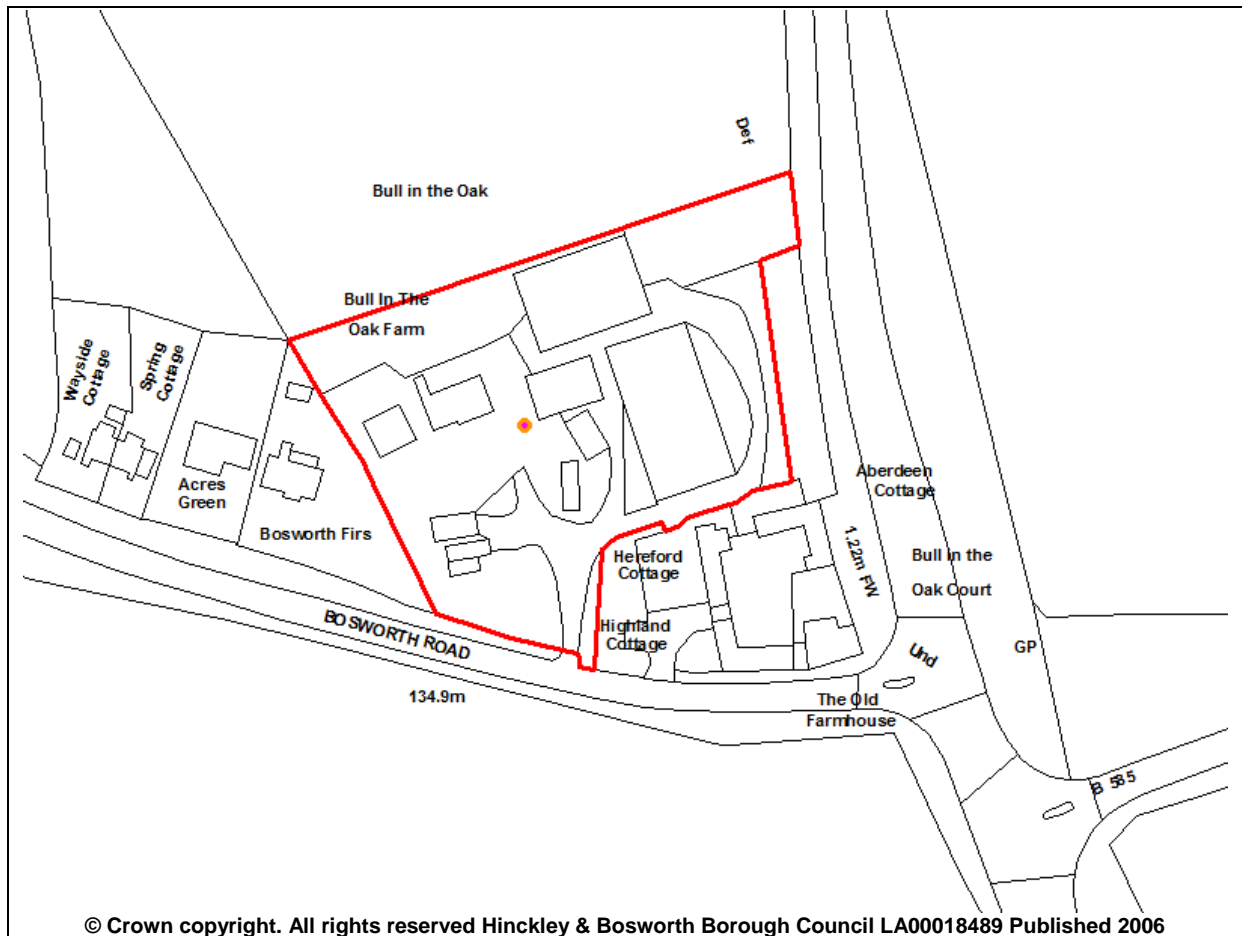
Planning Ref: 17/00149/FUL
Applicant: Cadeby Homes
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Bull In The Oak Farm Bosworth Road Bull In The Oak

Proposal: Removal of existing residential and agricultural buildings for the erection of 5 new dwellings and associated works



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 seeks planning permission for the erection of five new dwellings at Bull in the Oak Farm. The proposal would include the demolition of the existing agricultural buildings and two residential bungalows on site to allow for the site redevelopment.

- 2.2. The farm to be demolished is proposed to be relocated on a separate piece of land off Brascote Lane, Cadeby. This is proposed under application 17/00302/FUL, which is currently pending consideration and appears elsewhere on the agenda.
- 2.3. The proposed scheme comprises the erection of five detached, two storey dwellings, contemporary in design to reflect the character of traditional agricultural buildings. Plots 3 and 4 reflect the characteristics of Dutch barns, sited within the western part of the site. Plots 1, 2 and 5 have been designed with more traditional pitched roofs, each with an L-shaped wing. The dwellings would be sited on the plot to create two wider courtyard areas, with individual private courtyards serving each dwelling. The dwellings would also benefit from a double garage and private garden area serving each plot. The dwellings would have a minimum of 4 bedrooms per dwelling.
- 2.4. The access to the site is as existing. Additionally, the proposal would include the erection of an access track along the western boundary of the site to serve as access to the agricultural field to the north.
- 2.5. The following have been submitted to be considered with the application:-
 - Design and Access Statement
 - Planning Statement
 - Ecology Survey
 - Ground Investigation Report
 - Drainage Strategy

3. Description of the Site and Surrounding Area

- 3.1. The application site is a working farm known as Bull in the Oak Farm, located off Bosworth Road within Bull in the Oak. The site is located outside of any settlement boundaries, within the countryside.
- 3.2. The site currently comprises two detached bungalows, and approximately five agricultural buildings on site. The agricultural buildings are large, portal framed buildings. The access to the site is an existing access off Bosworth Road, consisting of a wide tarmac bell mouth leading on to a set of agricultural metal gates.
- 3.3. The owners of the farm, Mr and Mrs Jackson and their two sons, reside in the two bungalows on the site.
- 3.4. There are a number of large trees on site, the majority are located to the south-western corner of the site.
- 3.5. To the east of the site is the A447. There is extensive vegetation and mature hedgerow along the shared boundary with this road. There are residential dwellings to the western and southern boundaries of the site, including a Grade II listed building sited on the corner of the junction of the A447 and Bosworth Road. To the north of the site is an open agricultural field, which is also within the ownership of the applicant.

4. Relevant Planning History

94/00126/GDO	Extension to agricultural building	General Development Order	09.03.1994
97/00885/GDO	Erection of agricultural building for housing of livestock	General Development Order	31.10.1997
92/00849/4	Alterations to dwelling garage and detached store	Refused	28.10.1992
89/01014/4	Conversion of barns adjoining grade II listed cottage into three residential units with associated works	Refused	24.04.1990
89/00224/4	Change of use of farm out buildings to provide three dwellings	Permitted	22.04.1989
89/00084/4	Farm building for corn cattle sheep etc	Permitted	24.02.1989
81/00343/4	Erection of a bungalow	Permitted	02.06.1981
76/00341/4M	Erection of a dutch barn	Permitted	25.03.1976

5. Publicity

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

5.2. Market Bosworth Society has objected to the application. It is noted that they do not object to the principle of the redevelopment and improvement to the current site. They have raised the following concerns:-

- 1) Would result in a significant increase in traffic utilising the access to the site
- 2) Site is located next to a dangerous junction
- 3) Would increase congestion in the area

5.3. Representations have been received from four members of the public raising the following issues:-

- 1) Would be out of keeping with the character of the area
- 2) Would be overdevelopment of the plot
- 3) Would have adverse overbearing impacts to neighbours
- 4) Unsuitable development within an Area of Outstanding Natural Beauty
- 5) Would have adverse overlooking impacts to neighbours
- 6) Would result in loss of privacy
- 7) Would result in adverse overshadowing impacts
- 8) Loss of views to rear
- 9) Would have adverse noise impacts on neighbours

- 10) Concerns with the impact on wildlife on the site
- 11) Trees on site would be removed/damaged during construction
- 12) Concern with impact on hedge boundaries
- 13) Concerns with drainage and foul sewage disposal for the development
- 14) All other dwellings in area are single storey
- 15) Would be sited too close to neighbouring properties
- 16) Would be sited outside of development limits
- 17) Development would be in an area of attractive countryside
- 18) Drainage details have not been submitted for the site
- 19) There are existing soakaways on site serving neighbouring properties
- 20) Proposed design of dwellings is ugly
- 21) Concern with the impact of the development on overhead cables and the potential of the loss of power to neighbouring properties
- 22) Concern with the removal of asbestos materials from the site during construction
- 23) No details of boundary materials or management have been submitted
- 24) Other applications for planning permissions within the area have been refused
- 25) Concern over the times of construction

6. Consultation

6.1. No objections, subject to conditions, have been received from:-

Tree Officer
 Environmental Health (Pollution)
 Environmental Services (Drainage)
 Leicestershire County Council (Ecology)
 Street Scene Services (Waste)

6.2. No objections have been received from:-

Conservation Officer
 Leicestershire County Council (Highways)
 Severn Trent Water Ltd
 Environment Agency

7. Policy

7.1. Core Strategy (2009)

- None relevant

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM14: Replacement Dwellings in the Rural Area
- 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)

7.4. Other relevant guidance

- Planning (Listed Buildings and Conservation Areas) Act 1990
- The Town and Country Planning (General Permitted Development) (England) Order 2015

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Relocation of the existing farm under 17/00302/FUL
- Fallback position
- Design and impact upon the character of the area and listed buildings
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Ecology
- Planning balance
- Other issues

Assessment against strategic planning policies

8.2. In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).

8.3. Paragraph 14 of the National Planning Policy Framework (NPPF) and Policy DM1 of the SADMP sets out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan should be approved.

8.4. The site is located outside of any settlement boundaries, and therefore Policy DM4 of the SADMP applies. Policy DM4 seeks to safeguard the countryside from unsustainable development, and states that development beyond the defined settlement boundaries will be restricted to proposals which fulfil the criteria of this policy. Development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
- c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.

8.5. The proposal does not fall within one of the acceptable development categories identified in DM4 and is therefore contrary to this policy in this respect.

Relocation of the existing farm under 17/00302/FUL

- 8.6. Notwithstanding the policy conflict above, the acceptability of the relocation of the existing farm at Bull in the Oak is a material planning consideration in appraising the principle of development for the current application. The relocation of the farm is subject to a separate planning application 17/00302/FUL.
- 8.7. A range of evidence has been submitted to demonstrate the need to relocate the existing farm to the site off Brascote Lane, Cadeby, in particular, evidence of the extensive drainage issues on site. As a consequence of land drainage problems, the farm buildings have been rendered unfit for purpose. Evidence is also provided to demonstrate that the remediation of the drainage problems and redevelopment of the site with modern buildings would be prohibitive in cost terms and could not be achieved while maintaining a site which remained operational during the necessary works. The site is stated as having other issues relating to its severance by the adjacent highway A447 from the majority of the land holding, nuisance complaints from adjacent residential property, and spatial constraints impinging on the existing and future operational prospects of the farm business.
- 8.8. The relocation of the existing farm would result in a derelict site, which could lead to a number of adverse impacts on the surrounding area and neighbouring properties. The existing site is in a poor state, with extensive drainage issues and run-down buildings. The current application would provide the prospect to improve site, with contemporary designed dwellings and the opportunity to address the extensive drainage issues on site. It is noted that many of the comments received for the application do not object to the general principle for the redevelopment of the site, which indicates the current poor state of the site.
- 8.9. The two applications are directly related, as the funding provided through the sale and development of the application site would allow for the expansion of the farm and its relocation to the proposed site off Brascote Lane. It can therefore be argued that the current application would be in accordance with criterion c of Policy DM4 in this respect, as it would significantly contribute to the growth of an established rural business.

Fallback position

- 8.10. Another material planning consideration for this application is the potential redevelopment of the site through the rebuild of the existing two bungalows on site, and the permitted development rights for the site.
- 8.11. Policy DM14 of the SADMP supports the demolition and rebuild of an existing dwelling outside the settlement boundary where, it leads to an enhancement of the immediate setting and general character of the area; and the new dwelling is proportionate to the size, scale, mass and footprint of the original dwelling and situated within the original curtilage; and accords with other policies, including Policy DM10.
- 8.12. Part 3 Class Q of the Town and Country Planning (Permitted Development Order) (England) 2015 allows for the conversion of existing agricultural buildings into a maximum of three residential dwellings, provided that the total floor area does not exceed 450 m².
- 8.13. In line with the above legislation, in the instance of the refusal of the current application, the site could achieve five dwellings through alternative means. The bungalows on site could be retained, or alternatively, rebuilt in accordance with Policy DM14. The portal framed buildings on site could be converted under the Permitted Development Order into three separate residential dwellings.

- 8.14. The main difference between the development proposed, and that achievable through permitted development is the total residential floor area to be created on site. The scheme proposed within this application would result in an approximate total residential floor area of 1,527 m². The residential floor area achievable through permitted development would be approximately 674 m². The current proposal would result in more than double the residential floor area to be created.

Design and impact upon the character of the area

- 8.15. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses.
- 8.16. Section 12 of the NPPF provides the national policy on conserving and enhancing the historic environment. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 8.17. Policy DM4 seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.18. 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.
- 8.19. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment, stating that proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.20. The Old Farmhouse at Bull in the Oak is a late-18th century Grade II listed farmhouse, sited to the south-east corner of the site. It has a simple plan form and architectural features including small gabled dormers with timber decoration and a dentilled eaves cornice. There is an attached 19th century single storey range, now converted to two dwellings (Hereford Cottage and Highland Cottage) that provides a L-shape plan form, and a detached single storey L-shaped building dating from the same period that encloses the complex of buildings into a tight courtyard. This detached building has also been converted into residential use and is known as Aberdeen Cottage. Despite the former agricultural complex now being solely in residential use it continues to have a semi-rural character and the original plan form of the complex remains clearly discernible. Overall it can be considered that the Old Farmhouse and its associated complex of buildings are of architectural and historic interest and thus significance.
- 8.21. To the immediate north and west of the complex is the application site, which comprises a collection of two post-war red brick bungalows and a number of portal framed livestock and storage buildings.
- 8.22. Typically of post-war farming operations, the collection of buildings has grown organically and thus the farm complex has an irregular plan form. The appearance of the buildings is also organic, constructed using a range of materials and for a functional use rather than any particular aesthetic purpose. However, they could not be considered to be uncharacteristic within a rural setting, and due to this and the reasons above they could be considered to make a neutral contribution to the setting of the adjacent converted residential complex. This application seeks to remove the existing residential and agricultural buildings on site, and erect five new dwellings.

- 8.23. Concerns have been received in regard the scale of the dwellings proposed, in relation to the surrounding residential properties to the site, which are predominantly single storey in nature. However, the design of the proposed dwellings seek to reflect the form of the existing agricultural buildings on the site as opposed to the surrounding residential dwellings, as well as the area more generally, with the use of some contemporary design features. Plots 1, 2 and 5 have the form and appearance of a linear single or one and a half storey building, with glazed links between ranges, and the use of a range of materials including timber boarding, and traditional brickwork and clay roof tiles. Plots 3 and 4 have the form and appearance of a Dutch barn with steel portal frame, sheet metal roofing and timer cladding to the elevations. The layout of the plots is semi-regular, with some formality to plots 1, 2 and 5 sharing a courtyard. The proposed landscaping and creation of amenity areas to serve each of the plots will mean the development will have more of a domestic nature than the current collection of buildings, but the converted Old Farmhouse complex is also served by small front and side gardens and parking areas, so such features as proposed are not uncharacteristic of the wider area.
- 8.24. The Old Farmhouse itself is sited further away from the application site than its associated complex. It is located on the corner of Bosworth Road and the A447, and therefore views from the highway are where the building is most prominent. Plot 5 would be the closest building to be erected to the listed building. Given the existing agricultural building in this location, the backdrop of this dwelling from the listed building would not significantly differ from that of the existing. The proposed dwellings at plots 1, 2, 3, and 4 would be set away from the Old Farmhouse considerably, and as such, would not have an immediate impact on this heritage asset.
- 8.25. Overall, and by virtue of the layout, form, appearance and the use of appropriate materials it could be considered that the proposal will have a neutral impact on the setting of the adjacent Grade II listed Old Farmhouse and associated complex.
- 8.26. Concerns have been raised, stating that the development would be overdevelopment of the plot. As stated above, the proposed residential floor space to be created through the scheme would be approximately 1,527 m². However, the proposed total footprint of the scheme would only equate to approximately 994 m².
- 8.27. The existing total residential floorspace on site equates to approximately 224 m². However, the existing agricultural buildings on site have an approximate total floor area of 1,361 m². Therefore, the existing footprint of the whole site equates to approximately 1,585 m². Therefore, the proposed footprint would be a reduction to the existing, and therefore would not be considered out of character with the existing site in this regard, and is considered proportionate in relation to the existing development.
- 8.28. The siting of the dwellings proposed would be similar in position to the existing layout of buildings on the site. Therefore, the proposal would not encroach onto undeveloped land within the countryside, and would be in accordance with Policy DM4 of the SADMP in this respect.
- 8.29. The site would be partially screened from the A447 by the existing mature vegetation along the eastern boundary of the site. The set back of the dwellings from Bosworth Road would reduce the impact of the development from this street. Views of the development would be available from the field to the rear of the site. However, further screening through landscaping and boundary details could be secured through a pre-commencement condition, to help assimilate the development within the site further. This could be attached to any permission granted.

- 8.30. Given the above, it is considered that the proposal is compatible with the significance of the listed building and its setting, and would not appear out of keeping with the area or have an adverse impact upon the visual amenity of the countryside. The proposal complies with Policies DM4 and DM10 in this respect, as well as DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.31. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.32. Concerns have been raised in relation to the impacts of the development on neighbouring properties. To the south boundary of the site are residential dwellings Hereford Cottage, Highland Cottage, Old Farmhouse and Aberdeen Cottage. The dwelling proposed at Plot 5 would be sited along the southern boundary, which is shared by these neighbouring properties to the site. The proposed single storey protrusion towards the shared boundary would be sited closer to the boundary than the existing farm building on site. However, the scale and size of the built form would be significantly reduced. Given the single storey nature of this part of the proposed dwelling and it's orientation on the plot, it is not considered to have any adverse overbearing or overshadowing impacts to the neighbouring properties to the south. The first floor windows proposed along the side elevation facing out towards these neighbours would be high level, and therefore, any overlooking impacts would not be considered adverse. The proposed dwelling is sited to the north of these neighbouring properties, and therefore it is not considered to result in any overshadowing impacts to these neighbours.
- 8.33. To the western boundary of the site is Bosworth Firs, a detached, one and a half storey dwelling. The proposed Plot 4 would share the boundary to the west with this neighbouring property. The proposed first floor windows that would face out towards this neighbour would be high level, and therefore any overlooking impacts would be limited. In any case, due to the siting of the proposed dwelling on the plot, these windows would face out onto a blank side elevation of Bosworth Firs, and would not overlook the private amenity space to the rear. Notwithstanding the large scale of development, given the minimum separation distance of 11.5 metres between the two dwellings, and the screening provided by the hedge boundary between the two plots, it is not considered to result in any adverse overbearing impacts to this neighbour. Further, by virtue of the siting of the development and the separation distance from Bosworth Firs, it is not considered to result in any adverse overshadowing impacts to this neighbour.
- 8.34. By virtue of the proposed siting of Plots 1, 2 and 3, it is not considered that these dwellings would have any adverse impacts on any neighbouring properties.
- 8.35. Therefore, it is considered that the proposal would accord with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.36. Policy DM17 of the SADMP states that all new development should in be accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.37. Concerns have been raised in relation to the increase in traffic utilising the access to the site, the increase to congestion along Bosworth Road, and the location of the site next to the junction of Bosworth Road and the A447.

- 8.38. Leicestershire County Council (Highways) has raised no objections to the proposal. The road speed of Brascote Lane is 60mph, however, the close proximity of the junction with the A447 means that no traffic would travel at an excessive speed as it approaches and leaves the junction. As such, the visibility at the junction is considered to be acceptable. The access is existing and of a suitable width to accommodate residential vehicles, given that it is presently utilised by farm traffic.
- 8.39. The proposal would result in the reduction of slow moving farm vehicles utilising the access, which is considered to be a highway betterment.
- 8.40. The scheme would incorporate double garages to serve each property, as well as ample off-street parking to the front of each dwelling. Therefore, the level of parking provision to serve the proposed dwellings is considered sufficient, and therefore it is not considered that the proposal would result in overspill onto Bosworth Road.
- 8.41. The increase of three dwellings being served by the access is considered minor, particularly as the proposal would reduce the farm traffic utilising the site.
- 8.42. Therefore, the proposal would accord with Policies DM17 and DM18 of the SADMP.

Drainage

- 8.43. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding.
- 8.44. Concerns have been raised in relation to the drainage issues on site, and the lack of information provided for the drainage scheme for proposed development. The applicant has since submitted a Drainage Strategy for the site, identifying the source of flooding on site and a feasible drainage solution for the proposed development. Environmental Services (Drainage) has raised no objection to the scheme, subject to a pre commencement condition securing full drainage and SuDS principles to be submitted to and approved by the Local Planning Authority. This could be attached to any permission granted.
- 8.45. Additionally, concerns have been raised in relation to the existing soakaways on site, which serve neighbouring properties. The impact of the proposal on these soakaways would be a civil matter as opposed to a planning matter. In any case, it is anticipated that these would be identified within the full drainage and SuDS principles scheme.
- 8.46. Subject to the imposition of the conditions outlined above, the proposal is considered to accord with Policy DM7 of the SADMP.

Ecology

- 8.47. Policy DM6 of the SADMP seeks to avoid harm or loss to biodiversity, and where harm cannot be avoided or fully-mitigated, compensatory measures will be sought to off-set the impacts of the development.
- 8.48. Concerns have been raised in relation to the impact of the proposal on the wildlife on site. Leicestershire County Council (Ecology) has raised no objections to the proposal. The Ecology Survey submitted within the application is considered satisfactory. No protected species were recorded on site and the site is considered to have a low value to support protected species.
- 8.49. However, evidence of nesting swallows was identified within the existing buildings on site to be demolished through the current application. A condition has been recommended to ensure that the swallow nests to be lost would be replaced. This could be attached to any permission granted.
- 8.50. Subject to the above, the proposal is considered to accord with Policy DM6 of the SADMP.

Planning balance

- 8.51. The scheme is for a new residential development outside of any settlement boundary, sited away from any facilities or services to serve the new dwellings. However, through the direct link with planning application 17/00302/FUL for the relocation of the existing farm, it is considered that the current application would fulfil some aspect of criterion c of Policy DM4, as it would contribute to the expansion of growth of the existing farm business.
- 8.52. Another key factor is that the conversion of the agricultural buildings on the site would allow for three new dwellings under Permitted Development. Therefore, there is a fallback scheme for the provision of five dwellings on site through the retention or replacement of the two existing bungalows and through conversion.
- 8.53. Finally, the proposal would provide an opportunity for the redevelopment of a derelict and unsightly site, and to address the extensive drainage issues on the land.
- 8.54. Whilst the development is not strictly in accordance with the criteria of Policy DM4, it is considered to incorporate the general spirit of the policy as it would result in the enhancement of the immediate setting, would allow for the growth and expansion of the existing farm business through its relocation, and would not have a significantly adverse impact upon the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.55. It is therefore considered that the development would have no adverse impacts character of the area, the amenity of neighbouring properties, highway safety, drainage and ecology, it is considered on balance that the development would be acceptable.

Other issues

- 8.56. In relation to the comments received that the development proposed is located within an Area of Outstanding Natural Beauty, this is incorrect.
- 8.57. In relation to the comments received that the development would impact upon views out from neighbouring properties, the loss of a view is not a material planning consideration and cannot be afforded any weight.
- 8.58. In relation to the comments concerning the protection of the trees to be retained on site, the Tree Officer has recommended a condition to ensure the protection of these trees during the construction of development. This could be attached to any permission granted.
- 8.59. In relation to the comments received concerning overhead cables and loss of power to neighbouring properties, this is not a material planning consideration and cannot be afforded any weight.
- 8.60. In relation to the removal of asbestos materials from the site, this would be secured during the building control stage.
- 8.61. In relation to the comments received stating the other applications for planning permission within the same area have been refused, every application received by the Local Planning Authority is appraised on its own individual merits.
- 8.62. In regard to the concerns with the construction of development on site, a condition to provide a Construction Management plan prior to the commencement of development could be attached to any permission granted.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

10. Conclusion

10.1. The proposed benefits of the scheme by virtue of the visual improvement of the site, the contribution to the growth of the existing farm business, and the fact the buildings on the site could be converted to dwellings under permitted development are considered to outweigh the impact on the countryside by the development of new dwellings outside a defined settlement. Additionally, in line with the above, whilst not strictly in accordance with the criteria of Policy DM4, it is considered that the scheme would encompass the underlying values this policy. The proposal would have no adverse impacts upon the character of the countryside or listed building, amenity of neighbouring properties, highway safety and protected biodiversity within the area, and would therefore comply with Policies DM6, DM7, DM10, DM11, DM12, DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD, the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 66 and the overarching principles of the NPPF. The development is therefore considered acceptable, subject to the conditions below.

11. Recommendation

11.1. **Grant planning permission** subject to

- Planning conditions outlined at the end of this report.

11.2. That the Planning Manager 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 Drawing No's 7226-03-003 Rev D (Site-PR) received by the Local Planning Authority on 3 November 2017, 7226-03-004 Rev B (Plot 1-PR), 7226-03-005 Rev B (Plot 2-PR), 7226-03-006 Rev D (Plot 3-PR), 7226-03-007 Rev B (Plot 4-PR) and 7226-03-008 Rev E (Plot 5-PR) received by the Local Planning Authority on 11 December 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1, Policies DM4, DM10, DM11 and DM12 of the SADMP, section

12 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, D, E, F and G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby permitted shall be erected or carried out without the grant of planning permission for such extensions by the Local Planning Authority.

Reason: To ensure that the development preserves the intrinsic value and landscape of the countryside, in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

4. No construction past the foundations of the dwellings hereby permitted shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: In the interests of protecting the visual amenity of the area, in accordance with , Policies DM4, DM10, DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5. No construction past the foundations of the dwellings hereby permitted 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:-

- Hard surfacing materials;
- Boundary treatments;
- Fencing specifications
- Planting plans;
- Written specifications;
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- Implementation programme.

Reason: In the interests of protecting the visual amenity of the area, in accordance with , Policies DM4, DM10, DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details under condition 5 shall be carried out during the first available planting and seeding seasons (October - March inclusive) following the approval of the landscaping scheme. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damages or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: In the interests of visual amenity, and to ensure that the work is carried out within a reasonable period and thereafter maintained, to accord with , Policies DM4, DM10, DM11 and DM12 of the SADMP, section 12 of the

NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990..

7. The existing trees to be retained on site, shown on the approved Drawing No. 7226-03-003 Rev D (Site-PR) received by the Local Planning Authority on 3 November 2017, shall be protected by the erection of temporary protective fences in accordance with BS5837:2012 and of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall neither be raised nor lowered and no materials or temporary building or surplus soil shall be placed or stored there.

Reason: The trees are important features in the area and this condition is imposed to make sure that they are properly protected while building works take place on the site, to accord with Policies DM4, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Section 12 of the NPPF.

8. Development other than the clearance of the site shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved by the Local Planning Authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To ensure effective drainage on site, to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

9. Prior to the commencement of development, details of alternative nesting sites for swallows (such as the erection of at least 2 swallow specific nests) shall be submitted to and approved by the Local Planning Authority. The nesting sites shall be erected in accordance with the approved details prior to the occupation of any dwelling hereby permitted.

Reason: To ensure the protection of the species, in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD.

10. Demolition and site clearance shall take place outside of bird-nesting season, unless otherwise agreed in writing.

Reason: To ensure the protection of the species, in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD.

11. No development shall take place, including any works of demolition, until a Construction Method Statement 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 provide for:-

- i) The parking of vehicles of site operatives and visitors
- ii) Loading and unloading of plant and materials
- iii) Storage of plant and materials used in constructing the development
- iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v) Wheel washing facilities
- vi) Measures to control the emission of dust and dirt during construction;
- vii) A scheme for recycling/disposing of waste resulting from demolition and construction works

viii) Hours of construction

Reason: To ensure that that construction of development would have no adverse impacts on the surrounding area, amenity of neighbours and highway safety, in accordance with Policies DM4, DM10 and DM17 of the adopted Site Allocations and Development Management Policies DPD.

12. Notwithstanding the recommendations within the submitted Nicholls Colton report ref: G16301-IR - Final dated November 2016 no development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: In the interest of the protection of the amenity of future occupiers of the site, to accord with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

13. 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: In the interest of the protection of the amenity of future occupiers of the site, to accord with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

14. No construction past the foundations of the dwellings hereby permitted shall take place until representative samples of the types and colours of materials to be utilised on all external elevations, shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented 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 development, to accord with Policies DM4, DM10, DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

15. Notwithstanding the demolition and clearance of the existing buildings on site, no development shall commence on site until such time as the existing and proposed ground levels for the site, and proposed finished floor levels have been submitted in writing to and agreed in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved proposed ground levels and finished floor levels.

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity, to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

16. Before first use of the development hereby permitted the access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.), to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD.

17. Before first use of the development hereby permitted, details of pedestrian and vehicle visibility splays at the junction of the access with Bosworth Road shall be submitted to and approved in writing by the Local Planning Authority. These shall be in accordance with the standards contained in the current County Council design guide. The development shall then be implemented in accordance with the approved and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety, to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD.

11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Where soakaway drainage is initially proposed, the suitability of the ground strata for infiltration should be ascertained by means of the test described in BRE Digest 365, and the results submitted to the LPA and approved by the Building Control Surveyor before development is commenced. If the ground strata proves unsuitable for infiltration, alternative SuDS proposals will require the further approval of the LPA before this condition can be discharged.
3. Some areas of the proposal / proposed dwellings are situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
4. Any works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).
5. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
6. Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our New Connections Team (tel: 08007076600).
7. Please refer to the recommendations within the submitted Ecology Survey for the application (Dr. S. Bodnar), dated October 2016.

Planning Committee 9 January 2018
Report of the Planning Manager, Development Management

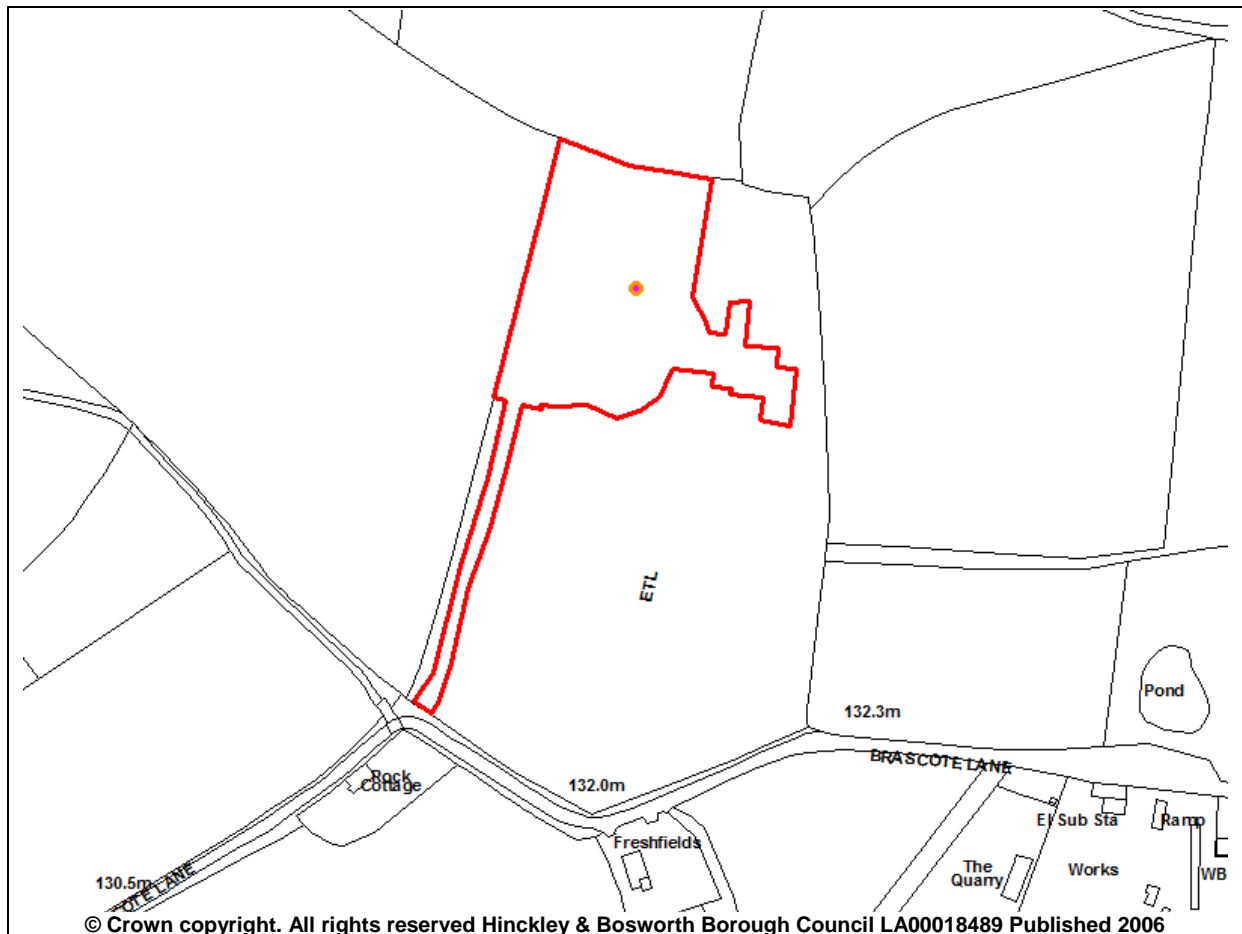
Planning Ref: 17/00302/FUL
Applicant: Cadeby Homes
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Land Off Brascote Lane Cadeby

Proposal: Erection of a farmyard and agricultural worker's 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 planning permission for the erection of six agricultural buildings, one silo structure and a new dwelling to create a new farmstead. The proposed dwelling would be to accommodate Mr and Mrs Jackson, and their two sons, all of whom are farm workers.

2.2. The agricultural buildings and structures proposed are as follows:-

- Building 1: Cattle shed,
 - Building 2: Silo storage structure,
 - Building 3: Hay barn,
 - Building 4: General storage building for food and equipment,
 - Building 5: Sheep and calf shed,
 - Building 6: Bull pens, and
 - Building 7: Chicken shed
- 2.3. The proposal comprises the provision of over 1200 sq m of floor space in a range of seven buildings, sited on an operational yard.
- 2.4. The dwelling proposed would comprise of a ground floor bedroom and en-suite, with an open kitchen/dining/living area, study, office, laundry and utility room. The first floor would comprise of two living annexes, each with a bedroom, living area, dressing area and en-suite.
- 2.5. An Agricultural Appraisal has been undertaken as part of this application.
- 2.6. A Design and Access Statement has also been submitted as part of this application.
- 2.7. A Badger Survey of the site has also been submitted with the application.
- 2.8. The proposed development is part of a larger scheme which includes the redevelopment of the existing farmstead at Bull in the Oak Farm, approximately 890 m to the north-west of the application site. The redevelopment of the existing farmstead is currently pending consideration under application 17/00149/FUL. As these applications are directly related to one another, they are being considered together.

3. Description of the Site and Surrounding Area

- 3.1. The application site is located in the countryside to the north-east of Cadeby. The settlement boundary of Cadeby is separated to the north-east by agricultural fields. The site is surrounded by agricultural land, with the exception of Cadeby Quarry to the south-east and two residential dwellings to the south.
- 3.2. The application site comprises an undeveloped agricultural field. The site is relatively flat and is bound by hedgerow and mature trees.
- 3.3. There is an existing access serving the site from Brascote Lane.
- 3.4. There is a public right of way that runs from the entrance to the site towards north-east boundary.

4. Relevant Planning History

None relevant.

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. One representation has been received from a member of the public. The comments received are in support of the proposal as the development would mean that the farm vehicles associated with the farm would no longer utilise the A447. However, the comments also request that the development does not result in any obstruction to the public rights of way within the near vicinity of the site.

6. Consultation

6.1. No objections have been received from:-

Cadeby Parish Council
Leicestershire County Council (Ecology)
Environmental Services (Drainage)
Leicestershire County Council (Drainage)
Environment Agency
Leicestershire County Council (Minerals)
Leicestershire County Council (Public Rights of Way)

6.2. No objection subject to conditions have been received from:-

Street Scene Services (Waste)
Leicestershire County Council (Archaeology)
Environmental Health (Pollution)

6.3. Leicestershire County Council (Highways) has referred the case officer to their standing advice for the application.

7. Policy

7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM5: Enabling Rural Worker Accommodation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

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

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Justification for rural workers' accommodation
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Ecology
- Archaeology
- Other matters

Assessment against strategic planning policies

- 8.2. In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.3. Paragraph 14 of the National Planning Policy Framework (NPPF) and Policy DM1 of the SADMP sets out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan should be approved.
- 8.4. Cadeby is identified as a rural hamlet within Policy 13 of the Core Strategy. The site is located outside of the settlement boundary of Cadeby, and therefore Policy DM4 of the SADMP applies. Policy DM4 seeks to safeguard the countryside from unsustainable development, and states that development beyond the defined settlement boundaries will be restricted to proposals which fulfil the criteria of this policy. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses
 - d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation
- 8.5. This application seeks planning permission for the erection of an agricultural workers dwelling, six agricultural buildings and a silo structure.
- 8.6. Evidence has been submitted by the applicant to demonstrate the need to relocate from the existing farm at the Bull in the Oak, including the main driving factor of extensive flooding issues at the current farm site. As a consequence of land drainage problems, the farm buildings have been rendered unfit for purpose. Evidence is also provided to demonstrate that the remediation of the drainage problems and redevelopment of the site with modern buildings would be prohibitive in cost terms and could not be achieved while maintaining a site which remained operational during the necessary works. The site is stated as having other issues relating to its severance by the adjacent highway A447 from the majority of the land holding, nuisance complaints from adjacent residential property, and spatial constraints impinging on the existing and future operational prospects of the farm business.
- 8.7. The farm business has gone through a period of standstill during which the Jackson's sons have grown, achieved agricultural qualifications, and eventually come into active participation in the business. The circumstances have now been reached in which there is a wish to modernise and expand the farm business. It is considered unviable and impracticable to contemplate modernising the existing farmstead, hence a proposal to relocate to a new site. The proposed farmyard has been designed for the specific requirements of Mr and Mrs Jackson, based on their existing plant machinery and livestock.

- 8.8. Another specified need for the relocation of the farm is due to the medical conditions of Mr and Mrs Jackson's sons. As stated above, the sons have now acquired agricultural qualifications and currently assist in the management and operation of the farm. All family members are now involved in the operation of the farm, and as such, the business is now in a position to expand. However, due to the constraints of the current farm site, namely the necessity for the farmers to cross and travel the A447, the main road adjacent to the site, the medical conditions of the sons have a significant impact upon the operation of the farm. Therefore, the relocation of the farm to the proposed site off Brascote Lane would improve the operations of the farm, and would allow for the expansion of the business.
- 8.9. Additionally, the evidence of the sons' medical conditions seek to justify the proposed scale and design of the agricultural dwelling within this application. This is assessed further within the report.
- 8.10. Following the submission of substantial evidence of the medical conditions of the Jackson's sons, including details of their background and confirmation of their disabilities from relevant official bodies, it is considered that their medical circumstances can be afforded significant weight and is considered to be a material consideration in the determination of this application.
- 8.11. The agricultural buildings, subject to an assessment of their visual impact, would accord with Policy DM4 of the SADMP.
- 8.12. There is no local policy specific to agricultural development, other than rural worker's accommodation. Rural workers dwellings are acceptable in accordance with Policy DM4 subject to complying with Policy DM5 of the SADMP and Paragraph 28 of the NPPF seeks to support the sustainable growth and expansion of all types of business within rural areas and the development of agricultural businesses.

Justification for rural worker accommodation

- 8.13. Policy DM5 of the SADMP states that to protect its intrinsic value, beauty and open character, the countryside will first and foremost be safeguarded from inappropriate development which includes the erection of new isolated homes. The provision of rural worker accommodation is however, considered an exception where the following circumstances can be demonstrated:
- a) It is essential for one or more workers to be readily available at most times for the proper functioning of the rural enterprise and the worker(s) are in full time, permanent employment which directly relates to the rural enterprise; and
 - b) The rural enterprise is economically sustainable and has a clear prospect of remaining so; and
 - c) There are no available existing dwellings or buildings suitable for conversion to residential on the site of the enterprise or within the local area; and
 - d) The proposed dwelling is of a size and scale appropriate to the proper functioning and needs of the rural enterprise
- 8.14. This application has been accompanied by an agricultural appraisal to demonstrate that a dwelling meets the criteria of Policy DM5. The appraisal has been independently assessed by a third party consultant appointed by the Council. Assessment against each criteria of Policy DM5 is as follows:-
- a) Essential need
- 8.15. The test of an essential need for a worker to be readily available at most times is the central consideration to this element of the current proposal.

8.16. The relocation of the farmstead involves the introduction of housed livestock to the new site. This has attendant animal welfare responsibilities. The Agricultural Appraisal states that “*the clients and their two sons work full time on the farm*”. The labour requirements of the current stated stocking and cropping profile of the farm business have been assessed following normal labour planning methodology using published Standard Man Day data. A conservative assessment indicates a requirement for 1.4 workers, of which the requirement for one worker is directly attributable to animal husbandry. This is largely due to the commitment necessary to calf rearing. It is, however, accepted that there will be occasions in the management of the other livestock, and particularly at some calving and lambing events, when the presence of 2 workers will be necessary from a health and safety and/or animal welfare perspective.

b) Economic sustainability

8.17. It is established that capital raised from the release of the existing farmstead at Bull in the Oak would be deployed in the funding of its replacement at Brascote Lane. The information provided on the sustainability of the underlying farm business is limited.

8.18. However, the sale of the existing farmstead represents a capital gain, one which would utilise agricultural assets in the ownership of Mr and Mrs Jackson. As such the gain would be able to benefit from relief from Capital Gains Tax afforded to farmers where the gain is rolled over into replacement agricultural assets. There is, therefore, a financial incentive to use capital derived from development gain in the furtherance of their agricultural businesses.

8.19. The Agricultural Appraisal states that the farm business has been profitable and supported the family financially. As stated above, there was a period of standstill whilst the Jackson’s sons completed their further education. However, the sons are now actively participating in the business, and the availability of funding from the sale of the existing farm site would allow for the expansion of the farm business accordingly.

c) Availability of alternative accommodation

8.20. In the instance of planning application 17/00149/FUL being granted, the existing dwellings and buildings serving the farmstead would be demolished. There is no indication provided by the application of other farm buildings that could be converted into a dwelling. The factors to which regard was had in determining the appropriate location for the re-siting of the farmstead has been submitted with this application. It is accepted that these are legitimate factors in undertaking such an exercise, and has no evidence on which to suggest that the selected site is deficient in relation to the application of the criteria.

8.21. Housing within the settlement boundary of Cadeby would not be sufficiently close to adequately monitor housed livestock outside normal working hours and to identify health or environmental problems requiring immediate attention. Therefore, it is considered that there is no available alternative to providing accommodation for a rural worker to meet the needs of the business.

d) Size and scale of dwelling

8.22. The actual dwelling proposed is a substantial 3-bed, 2-storey dwelling extending to 216 sq m of floor space, including an integral office, and double garage space. This is a large sized dwelling in national terms, which see principal workers’ dwellings rarely rising to a floor area above 200 sq m. The large size appears to reflect the provision of separate private accommodation for each of the Jackson’s two sons and to replicate privacy available from the current two bungalows at the Bull in the

Oak farmstead. The justification for the size and facilities of the proposed dwelling relates to the sons' disabilities, which requires an element of ongoing supervision, while work of the farm and separate accommodation provides a degree of independence. Substantial evidence has been submitted in support of these circumstances.

- 8.23. Given the above, the size of the dwelling proposed is considered to be appropriate.

Conclusion

- 8.24. It is considered that both elements of the proposal, the replacement dwelling and farm buildings, would be in accordance with Policies DM4 and DM5 of the SADMP, and Paragraph 28 of the NPPF. The proposed dwelling shall be subject to an agricultural occupancy condition.

Design and impact upon the character of the area

- 8.25. Policy DM4 of the SADMP seeks to ensure that development does not have a significant adverse impact on the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.26. 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.
- 8.27. The application site comprises an agricultural field. The site is well screened by mature hedgerow and trees along the boundaries with adjacent fields and Brascote Lane. Notwithstanding the fact that the proposal would introduce built form within the countryside, the agricultural buildings proposed would be of a flexible, general purpose character typical of those seen on many farms. The buildings are considered to be functional and appropriate in design, and are arranged in a courtyard formation. As such, the proposed farm buildings would not be out of keeping with the rural character of the area.
- 8.28. The proposed design of the agricultural dwelling would be reflective of that proposed for the residential development proposed on the existing Bull in the Oak farm site under planning application 17/00149/FUL. The dwelling proposed is large; however, the necessity of the size to accommodate four adults has already been justified above. The proposed design of the dwelling is contemporary, designed to reflect a traditional agricultural livestock barn, with wide gables and a single ridge roof line. It is considered that the dwelling would assimilate with the other agricultural buildings proposed on site.
- 8.29. Extensive screening is provided from the main highway, and therefore any views of the site from the road would be mitigated. Views from the public right of way would be available of the whole farmstead. A condition to secure soft landscaping to provide screening along the south boundary of the site could be attached to any permission granted. This would help to mitigate the view of the farmstead from the public right of way.
- 8.30. The materials to be utilised on the external elevations would be facing brickwork and timber boarding. Further details of the materials could be secured via a condition.
- 8.31. Overall, it is considered that the proposal would be in keeping with the rural character of the area, and would accord with Policies DM4 and DM10 of the SADMP accordingly.

Impact upon neighbouring residential amenity

- 8.32. Policy DM7 seeks to prevent adverse impacts from pollution by ensuring development proposals demonstrate that appropriate remediation of contaminated

land is undertaken, and that development would not cause noise or vibrations of a level that would impact on amenity.

- 8.33. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties, or the amenity of occupiers of the proposed development.
- 8.34. Environmental Health (Pollution) have raised concerns in regard to the gravel extraction works to be undertaken by Cadeby Quarry, to be carried out to the east of the access road within the site, to the south boundary with the main farm site proposed. However, discussions have been undertaken by the applicant and Cadeby Quarry. The proposed works being undertaken by the quarry are short term works to extract 160,000 tonnes of gravel from the land within the applicant's ownership, before re-instating the land back suitable for agriculture. In the case of planning permission being granted for this application, due to the time anticipated for construction of the farmstead, it is not considered that the noise and vibrations of the gravel extraction works would not impact on the amenity of the future occupiers of the dwelling proposed.
- 8.35. Environmental Health (Pollution) has also recommended a condition for a scheme of investigation for land contamination to be carried out prior to any soft landscaping works on the site. This could be attached to any permission granted.
- 8.36. In regard to neighbours, given the extensive separation distances between the proposed farmstead and the residential dwellings to the south of the site, it is not considered that the proposal would have any adverse impacts on these neighbours.
- 8.37. The proposal therefore would accord with Policies DM7 and DM10 of the SADMP.

Impact upon highway safety

- 8.38. Policy DM17 of the SADMP states that all new development should in be accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.39. Leicestershire County Council (Highways) has referred the case officer to their standing advice for the application, making particular reference to consider the surfacing of the access to the site. The access to the site is as existing. There is no indication within the application that new hard standing is to be erected at the existing access or along the existing driveway into the site. A condition to secure details of any hard landscaping for approval could be attached to any permission granted.
- 8.40. Additionally, the proposed courtyard and garaging is considered to provide adequate parking provision for the dwelling.
- 8.41. The proposal would therefore accord with Policies DM17 and DM18 of the SADMP.

Drainage

- 8.42. Policy DM7 of the SADMP seeks to ensure that surface water and groundwater quality are not adversely impacted by new development and that it does not exacerbate flood risks.
- 8.43. No objections have been received for the application from the Environment Agency, LCC (Drainage) or Environmental Services (Drainage), however notes have been recommended to bring to the applicant's attention. These have been included below.

Ecology

- 8.44. Policy DM6 of the SADMP seeks to conserve and enhance features of nature conservation and geographical value.

- 8.45. Leicestershire County Council (Ecology) has submitted no objections to the application. No protected species were identified within the submitted Badger Survey.

Archaeology

- 8.46. Policy DM13 of the SADMP requires that where a proposal has the potential to impact a site of archaeological interest, developers to set out in their application an appropriate desk based assessment and, where applicable, results of a field evaluation detailing the significance of any affected asset.
- 8.47. Leicestershire County Council (Archaeology) has raised no objections to the scheme. However, given that the site lies within an area of good archaeological potential, close to an area of Iron Age settlement and occupation, they have recommended pre-commencement conditions for a Written Scheme of Investigation to be carried out. These conditions could be attached to any permission granted.

Other matters

- 8.48. Leicestershire County Council (Public Rights of Way) has raised no objection to the scheme, as the proposal would not result in any obstruction to Public Footpath S16 which runs across the site. However, the comments received have included notes to the applicant, which have been included below.

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. The equality implications arising from this application relate to the protected characteristics of the Jackson's two sons, who are agricultural workers, and would reside within the dwelling proposed with Mr and Mrs Jackson. As stated above, significant weight has been afforded to these matters, and full consideration has been given to the personal circumstances of Mr and Mrs Jackson, and their two sons.

10. Conclusion

- 10.1. The application site is located in the countryside where residential development is restricted by Policy DM4 of the SADMP. The proposed buildings are required for the purposes of agriculture and the dwelling is required to accommodate the agricultural workers. An assessment of the requirement for the dwelling has been undertaken and is acceptable in accordance with Policy DM5 of the SADMP.
- 10.2. The proposed development would not have a significant adverse impact on the character and appearance of the countryside and would not adversely impact on the amenity of neighbouring properties or future occupiers, and would not adversely impact on highway safety. The proposed development is therefore in accordance with Policies DM1, DM4, DM5, DM6, DM7, DM10, DM13, DM17 and DM18 of the SADMP, and is considered acceptable 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 Drawing No's 7461-03-001 Rev C (Block Plan/Site Location Plan), received by the Local Planning Authority on 13 October 2017, 7461-03-07 (Bull Pen, Chicken Coop and Silo), received by the Local Planning Authority on 22 April 2017, 7461-03-04 (Cattle Shed, Plans/Elevations), 7461-03-06 (General Food Store, Plans/Elevations), 7461-03-05 (Hay Barn, Plans/Elevations), 7461-03-03 (Cattle/Sheep, Plans/Elevations), 7461-03-002 (Farmhouse-PR), Design and Access Statement, Agricultural Appraisal and Planning Statement, received by the Local Planning Authority on 29 March 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1, DM4, DM5 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. Prior to the commencement of development, representative samples of the types and colours of materials to be utilised on all external elevations for the dwelling hereby approved, shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented 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, DM4, DM5 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

4. Prior to the commencement of development, representative samples of the types and colours of materials to be utilised on all external elevations for the agricultural buildings hereby approved, shall be deposited with and approved

in writing by the Local Planning Authority, and the scheme shall be implemented 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, DM4, and DM10 of the adopted Site Allocations and Development Management Policies DPD.

5. The dwelling hereby permitted shall not be occupied until the agricultural Building 1 (cattle shed), has been completed and is ready for occupation by livestock in accordance with Drawing No. 7461-03-001 Rev C (Block Plan/Site Location Plan), received by the Local Planning Authority on 13 October 2017, and Drawing No. 7461-03-04 (Cattle Shed, Plans/Elevations) received by the Local Planning Authority on 29 March 2017. Prior to occupation of the dwelling, evidence of completion and readiness for occupation by livestock of the cattle shed shall be submitted to the Local Planning Authority.

Reason: For the avoidance of doubt and to ensure the dwelling is used for residential purposes related to the efficient working of the rural economy in accordance with Policies DM4 and DM5 of the adopted Site Allocations and Development Management Policies DPD.

6. The occupation of the dwelling hereby permitted shall be limited to a person or persons solely or mainly working, or last working in the locality in agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990, or a widow or widower of such a person, and to any resident dependants.

Reason: For the avoidance of doubt and to ensure the dwelling is used for residential purposes related to the efficient working of the rural economy in accordance with Policies DM4 and DM5 of the adopted Site Allocations and Development Management Policies DPD.

7. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, D, E, F and G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling hereby permitted shall be erected or carried out without the grant of planning permission for such extensions by the Local Planning Authority.

Reason: To ensure that the development preserves the intrinsic value and landscape of the countryside, in accordance with Policies DM4 and DM5 of the adopted Site Allocations and Development Management Policies DPD.

8. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: In the interests of protecting the visual amenity of the area, in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

9. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local

Planning Authority and these works shall be carried out as approved. These details shall include:-

- Means of enclosure
- Hard surfacing materials (including those to be utilised on access and driveways)
- Boundary treatments
- Planting plans
- Written specifications
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- Implementation programme

Reason: In the interests of protecting the visual amenity of the area, in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

10. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details under condition 8 shall be carried out during the first available planting and seeding seasons (October - March inclusive) following the approval of the landscaping scheme. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: : In the interests of visual amenity, and to ensure that the work is carried out within a reasonable period and thereafter maintained, to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

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

Reason: In the interest of the protection of any future occupiers, in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies DPD.

12. 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: In the interest of the protection of any future occupiers, in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies DPD.

13. No development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:-

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
- The programme for post-investigation assessment
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

Reason: To ensure satisfactory archaeological investigation and recording, in accordance with Policy DM13 of the adopted Site Allocations and Development Management Policies DPD.

14. No demolition/development shall take place other than in accordance with the Written Schemes of Investigation approved under condition 12.

Reason: To ensure satisfactory archaeological investigation and recording, in accordance with Policy DM13 of the adopted Site Allocations and Development Management Policies DPD.

15. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Schemes of Investigation approved under condition 12 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure satisfactory archaeological investigation and recording, in accordance with Policy DM13 of the adopted Site Allocations and Development Management Policies DPD.

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

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity and to preserve the character and appearance of the countryside, to accord with Policies DM4 and 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 or call 01455 238141.
2. Please refer to the recommendations within the submitted Badger Survey for the application (Stephan Bodnar), dated 30 June 2017.
3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell

systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.

4. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
5. Prior to construction, measures should be taken to ensure that users of the Public Footpath are not exposed to any elements of danger associated with construction works. Signage may be appropriate if construction vehicles have to cross the Public Footpath.
6. The 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.
7. If the developer requires any Right of Way to be temporarily diverted or closed, for a period of up to six months, to enable construction works to take place, an application should be made to roadclosures@leics.gov.uk at least 8 weeks before the temporary diversion / closure is required.
8. Any damage caused to the surface of the Public Footpath, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
9. No new gates, stiles, fences or other structures affecting the Public Footpath, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
10. If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under Section 23 of The Land Drainage Act 1991. This is in addition to any planning permission that may be granted. Guidance on this process and a sample application form can be found at the following: <http://www.leicestershire.gov.uk/Flood-risk-management>.

Planning Committee 9 January 2018
Report of the Planning Manager, Development Management

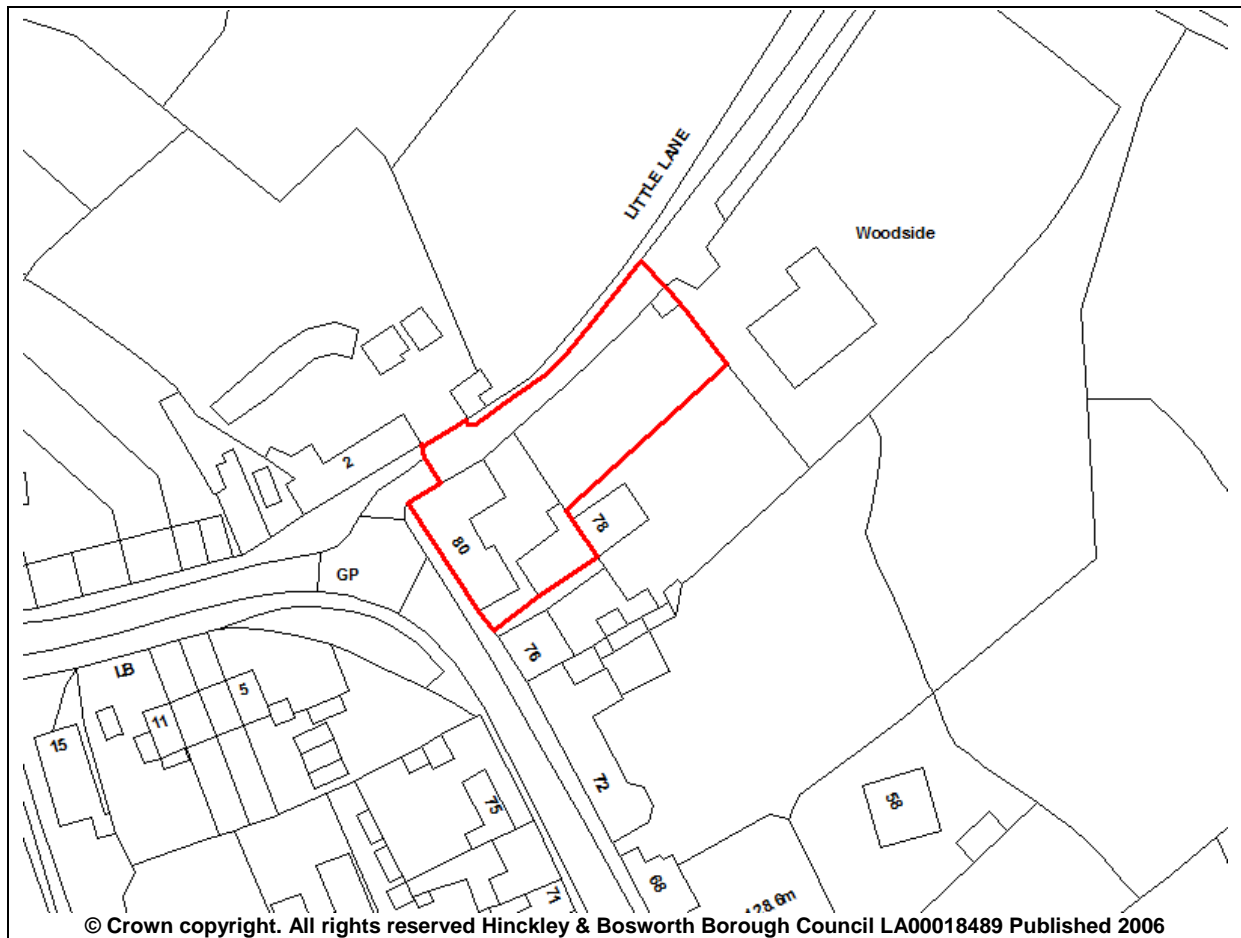
Planning Ref: 17/01047/HOU
Applicant: Mr Alan Cooper
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 80 Main Street Desford

Proposal: Removal of a section of wall to create a vehicular access and erection of gates



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 planning permission for the removal of a section of wall and erection of gates to create a vehicular access on Little Lane with a car parking area in the rear garden of the existing dwelling.

3. Description of the Site and Surrounding Area

- 3.1. The application site is located on the northern side of Desford within the settlement boundary and conservation area. The area is characterised by primarily residential development with dwellings set forward on the plot abutting the footpath. Dwellings in the vicinity are served by low levels of off-street car parking resulting in on-street car parking on surrounding roads. To the north of the application site is a planted area and beyond that is agricultural land. To the north east are two dwellings access along Little Lane.
- 3.2. The application site comprises a two storey dwelling set forward on the plot. The dwelling has a garage and an area of hardstanding sufficient to accommodate a single vehicle. The site includes Little Lane as this is a private road. The appropriate advertisement has been undertaken by the applicant and certificates of ownership signed in relation to land outside their ownership. Public footpath R87 runs along Little Lane There is a historic wall between no. 80 Main Street and Little Lane constructed with a stone base with brick atop and comprising pillars at regular intervals.

4. Relevant Planning History

None applicable.

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Six representations of objection have been received commenting that:
- 1) There is already 2 of-street car parking spaces as well as a garage
 - 2) The design of the gates are not in-keeping with the age and style of the conservation area
 - 3) Access via Little Lane is restricted to 4 access points and would breach the original contract
 - 4) Increased traffic along Little Lane would endanger users of the footpath
 - 5) Visibility at the access would be poor
 - 6) There is an original floor from a Victorian sunken greenhouse where the hardstanding is proposed
 - 7) Traffic on Main Street is horrendous and often congested

6. Consultation

- 6.1. Leicestershire County Council (Highways) refer to standing advice.
- 6.2. Leicestershire County Council (Public Rights of Way) – there is concern of the generation of additional traffic and the impact on users of the footpath on a stretch which is narrow.
- 6.3. Leicestershire County Council (Archaeology) – no objection.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres Relating to Leicester
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment

- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

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

8. Appraisal

8.1. Key Issues

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Archaeology
- 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. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 12 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 8.3. This proposal seeks to remove a section of wall to create a vehicular access and the erection of gates. The current wall bounding the garden of 80 High Street from Little Lane is constructed of red brick with blue saddleback coping stones and set on a stone base. It is of a considerable height, reaching 2.8 metres in height due to site levels towards the neighbouring property on Little Lane. The wall is located within the Desford Conservation Area and the Conservation Area Appraisal identifies that brick boundary walls provide a strong sense of enclosure, channel views and provide a distinct local identity. The wall subject to this application is no exception and it contributes positively to the character and appearance and thus significance of the conservation area.
- 8.4. The proposal seeks to remove a 3.8 metre section of the wall on to Little Lane to provide car parking spaces. Details have been submitted which identify that the gates are to be constructed of solid timber and to nearly the same height as the existing wall with a slightly curved design for the top. The Conservation Area Appraisal provides guidance states that where the loss of important boundary walls is unavoidable any new openings should be as narrow as possible. In this instance, the loss of a 3.8 metre section of wall cannot be narrowed any further without adversely impacting on visibility splays at the access. Additionally, the width of the gates has been determined by the space between the existing brick pillars. The section of wall to be removed is relatively small in the context of the considerable length of the wall along Little Lane. By virtue of the height of the proposed replacement gates, their appearance and materials, they would retain a reasonable and appropriate sense of enclosure along Little Lane

- 8.5. Due to the contribution the wall makes to the significance of the conservation area a loss of a section of the wall will cause a minor level of harm to its significance which is considered to be “less than substantial”. In accordance with Policy DM11 of the SADMP and paragraph 134 of the NPPF the harm caused by the proposal should be weighed against the public benefits.
- 8.6. Public benefits arising from the scheme are limited to the removal of two cars parking on-street around the junction of Main Street and Little Lane. At present, the level of on-street car parking in this area is considered to have an adverse impact on the character and appearance of the conservation area. Additionally, concerns have been raised Main Street is congested with vehicles struggling to pass one another. The removal of some on-street car parking would make a minor contribution to alleviating the congestion.
- 8.7. It is considered that the public benefit resulting from the proposed development is minor. However, the level of harm caused to the significance of the conservation area is also minor. In this instance, on balance, it is considered that the public benefits of the scheme outweigh the harm caused to the conservation area.

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.
- 8.9. The proposed access would be in close proximity to Woodlands along Little Lane and the car parking area would be near to 76 Main Street. The proposed access would increase vehicular movements in close proximity to both the dwellings. However, it is considered that the vehicle movements would not generate noise and disturbance that would be significantly harmful to the amenity of the occupiers of the neighbouring dwellings.

Impact upon highway safety

- 8.10. 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.
- 8.11. This application seeks planning permission for the demolition of a section of wall and erection of gates to facilitate a vehicular access onto Little Lane. Little Lane is a private road which is single track bound on one side by the wall of the application site and hedgerow on the other. Public footpath R87 runs along Little Lane. Leicestershire County Council (Highways) were consulted on the application and referred to standing advice. Leicestershire County Council (Public Rights of Way) have raised concern that the proposed development would generate additional traffic along the lane which could adversely impact on the users of the footpath given the width of the lane and the lack of refuge for pedestrians.
- 8.12. The proposed vehicular access would be 3.5m wide. In accordance with the 6Cs Design Guide an access serving a single dwelling should be 2.75m wide. From an access, pedestrian visibility splays of 1m by 1m would be sought. Given the height of the existing wall, normal pedestrian visibility splays could not be achieved without further removal of the wall which would be harmful to the character of the conservation area and therefore splays of only 0.4m by 0.4m are proposed. Having regard to the narrow nature of Little Lane vehicles would be required to egress the site slowly. Additionally, pedestrians are likely to walk towards the middle of the lane as opposed to directly adjacent to the access which increases visibility at the access. Although the pedestrian visibility splays would not meet the recommended requirements, it is considered that the access would not have an adverse impact on highway safety.

- 8.13. Concern has been raised regarding limited visibility and the lack of pedestrian refuge along Little Lane as well as the increase in vehicle movements. There are two dwellings along Little Lane at present as well as accesses to agricultural land. There is clear visibility from the end of the footpath at the top of Little Lane to the proposed access and therefore there would be no conflict between users of the footpath and vehicles and no requirement for refuge/a passing bay. There are no known incidents between vehicles and pedestrians along Little Lane and therefore it is considered there would not be any adverse impacts resulting from the increase in vehicle movements along this section of Little Lane.
- 8.14. At the junction of Main Street and Little Lane, vehicle visibility splays are often obscured by on-street parking in both a westerly and southerly direction. The proposed development would reduce the level of on-street car parking which would increase visibility at the junction and provide betterment to highway safety.
- 8.15. The applicant has commented that there is currently insufficient off-street car parking provision serving the occupiers of the dwelling. The dwelling is served by a garage and an area of hardstanding forward of the garage. Car parking spaces are required to be 2.4m by 5.5m and garages are required to be 3m by 6m if they are considered to provide a car parking space. The existing garage is not sufficient in size to provide a car parking space and the area of hardstanding is only sufficient to accommodate a single vehicle. Therefore, it is considered there is presently insufficient car parking provision serving the dwelling. The proposed development would increase the provision of off-street car parking to a level more appropriate level for a dwelling of this size and in a settlement with limited facilities and services.

Archaeology

- 8.16. Policy DM13 of the SADMP seeks to ensure appropriate investigation of archaeological remains where a development may impact upon the significance of an asset.
- 8.17. Concern has been raised that the development may impact upon Victorian remains. Leicestershire County Council (Archaeology) has commented that historic maps identify a small structure in the northern corner of the proposed driveway. However, neither of these is likely to be of such significance to warrant formal archaeological investigation. Additionally, the small scale of the proposed groundworks is unlikely to offer any opportunity to properly investigate the archaeological potential. It is considered that the proposed development would not impact upon archaeological remains of any significance.

Other matters

- 8.18. Concern has been raised that there is only permission for the existing accesses along Little Lane and the proposed access would not have lawful access. The applicant have undertaken advertisement in accordance with the regulations to determine the owner of the Lane and signed the appropriate certificates of ownership. This permission would allow the access to be constructed but would not provide lawful access along Little Lane without the owner's permission. Permission/right of access along Little Lane is a civil issue and is not a material planning consideration that can be taken into account in the assessment of this application.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

10. Conclusion

10.1. The proposed development would result in a less than substantial level of harm to the significance of the conservation area which is considered to be outweighed by the public benefits. The proposal would increase the level of off-street car parking associated with the dwelling to an acceptable level. There would not be an adverse impact on the amenity of neighbouring occupiers nor highway safety including users of the footpath along Little Lane. There would be no requirement for archaeological investigation on the site. The proposed development is considered to be in accordance with Policies DM1, DM10, DM11, DM12, DM13, DM17 and DM18 of the SADMP and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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 except in complete accordance with the details shown on the submitted plans, details and materials:

Site Location Plan (received on 21 December 2017)

Proposed Gate Elevation (received on 18 December 2017)

Block Plan (received on 18 December 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 commencement of development, details of the materials and any finishes to be used for the gates 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 Policies DM10, DM11 and DM12 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 or call 01455 238141.

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PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 29.12.17

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
17/00030/PP	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	Start Date Questionnaire 3rd Party Notification Statement of Case Proof of Evidence Inquiry Date	11.12.17 05.01.18 05.01.18 02.02.18 TBC TBC
17/00031/FTPP	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)	Start Date Awaiting Decision	15.12.17
17/00024/FTPP	TW	17/00520/HOU (PINS Ref 3189242)	WR	Stephen John Gray 1 Elm Close Groby	1 Elm Close Groby (Erection of boundary fence (retrospective))	Start Date Awaiting Decision	30.11.17
17/00025/FTPP	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)	Start Date Awaiting Decision	30.11.17

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Agenda Item 11

		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	
17/00028/PP	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	Start Date Statement of Case Final Comments	04.12.17 08.01.18 22.01.18
17/00027/PP	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))	Start Date Statement of Case Final Comments	04.12.17 08.01.18 22.01.18
17/00026/PP	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))	Start Date Statement of Case Final Comments	04.12.17 08.01.18 22.01.18
	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 Unaccompanied site visit	22.09.17 09.01.18
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 Awaiting Decision	02.11.17

	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	
17/00022/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 Awaiting Decision	02.11.17
17/00029/PP	CA	17/00055/FUL (PINS Ref 3179549)	WR	Mr Daniel Cliff 223 Markfield Road Groby	223 Markfield Road Groby (Siting of a storage container)	Start Date Statement of Case Final Comments	04.12.17 08.01.18 22.01.18

Decisions Received

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)	Allowed	05.12.2017
	TW	17/00234/UNHOUS	WR	Mr Clive Hill 6 Azalea Close Burbage	6 Azalea Close Burbage	Withdrawn (Appeal not started)	

Rolling 1 April 2017 - 29 December 2017**Planning Appeal Decisions**

No of Appeal Decisions	Officer Decision			Councillor Decision			Non Determination			
	Allowed	Dismissed	Split	Withdrawn	Allow	Spt	Dis	Allow	Spt	Dis
20	5	14	0	1	5	0	14	0	0	0

Enforcement Appeal Decisions

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