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Chief Executive

Date: 09 September 2019



**Hinckley & Bosworth
Borough Council**

To: Members of the Planning Committee

Mrs MJ Crooks (Chairman)	Mr A Furlong
Mr DJ Findlay (Vice-Chairman)	Mr SM Gibbens
Mrs CM Allen	Mr E Hollick
Mr RG Allen	Mr KWP Lynch
Mr CW Boothby	Mrs LJ Mullaney
Mr MB Cartwright	Mr RB Roberts
Mr DS Cope	Mrs H Smith
Mr WJ Crooks	Mr BR Walker
Mr REH Flemming	

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, 17 SEPTEMBER 2019** 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 Manager

Fire Evacuation Procedures

- 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.

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

Use of mobile phones

To minimise disturbance to others attending the meeting, please switch off your phone or other mobile device or turn it onto silent or vibrate mode.

Thank you

PLANNING COMMITTEE - 17 SEPTEMBER 2019

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 4)

To confirm the minutes of the meeting held on 20 August 2019.

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. 19/00253/CONDIT - CROWN CREST PLC, DESFORD LANE, KIRBY MUXLOE (Pages 5 - 18)

Application for variation of Condition 11 of planning permission 10/00332/FUL and planning permission 12/00313/CONDIT to extend the permitted days and hours during which deliveries can be taken at, or dispatched from, the site to: Mondays to Fridays (including Bank Holidays) 06.00 to 23.00; Saturdays 08.00 to 18.00 and Sundays 09.00 to 13.00.

8. 19/00625/DEEM - AMBION COURT, SOUTHFIELD WAY, MARKET BOSWORTH (Pages 19 - 36)

Application for demolition of the existing sheltered flats and the construction of 24 sheltered flats (for the over 60s) and three bungalows with associated car parking and landscaping.

9. 19/00619/OUT - 8 CROSSWAYS, BURBAGE (Pages 37 - 46)

Application for erection of one dwelling and garage (outline - all matters reserved).

10. PLANNING ENFORCEMENT UPDATE (Pages 47 - 54)

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

11. APPEALS PROGRESS (Pages 55 - 58)

To report on progress relating to various appeals.

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

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HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

20 AUGUST 2019 AT 6.30 PM

PRESENT: Mrs MJ Crooks - Chairman
Mr DJ Findlay – Vice-Chairman
Mr RG Allen, Mr CW Boothby, Mr SL Bray (for Mr DS Cope), Mr MB Cartwright,
Mr WJ Crooks, Mr REH Flemming, Mr A Furlong, Mr SM Gibbens, Mr E Hollick,
Mr KWP Lynch, Mrs LJ Mullaney, Mr RB Roberts, Mrs H Smith and Mr BR Walker

Also in attendance: Councillor DT Glenville and Councillor P Williams

Officers in attendance: Jenny Brader, Rhiannon Hill, Rebecca Owen, Michael Rice and Nicola Smith

113 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Mrs Allen and Councillor Cope, with the substitution of Councillor Bray for Councillor Cope authorised in accordance with council procedure rule 10.

114 MINUTES

In considering the minutes of the previous meeting, Councillor Cartwright, seconded by Councillor Allen, requested that the following amendments (in italics) to minute number 92 (application 19/00149/OUT) to accurately reflect the decision:

Paragraph 2:

It was moved by Councillor Cartwright that permission be granted subject to the conditions in the officer's report, *that it be noted that the committee endorsed the delivery within 18 months, and that any amendment to the section 106 agreement of a minor nature be delegated to the Head of Planning in consultation with the ward councillor(s) and major amendments be brought back to the Planning Committee.*

Resolution:

- (iii) *The conditions relating to delivery within 18 months be endorsed;*
- (iv) *Any amendment to the S106 agreement of a minor nature be delegated to the Head of Planning in consultation with the relevant ward councillor(s) and of a major nature be brought back to Planning Committee.*

Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – the minutes of the meeting held on 23 July be approved subject to the abovementioned amendments and signed by the chairman.

115 DECLARATIONS OF INTEREST

No interests were declared at this stage.

116 DECISIONS DELEGATED AT PREVIOUS MEETING

It was reported that the decisions in relation to applications 18/01252/OUT and 19/00611/HOU had been issued. Application 19/00149/OUT was awaiting a section 106 agreement.

117 19/00452/FUL - 83-103 CHURCH STREET, BURBAGE

Application for change of use of part of existing retail unit to drinking establishment (use class A4).

At this juncture, Councillor Lynch stated that he was a member of Burbage Parish Council's Planning Committee but had not commented on this application.

Notwithstanding the officer's recommendation that permission be granted, it was moved by Councillor Flemming and seconded by Councillor Walker that permission be refused due to the risk to pedestrian safety. Upon being put to the vote the motion was CARRIED and it was

RESOLVED – permission be refused on grounds of pedestrian safety due to the users who may wish to congregate outside impeding the safe access for pedestrians contrary to policy DM17b.

118 18/01288/FUL - THE BULLS HEAD, 88 MAIN STREET, NAILSTONE

Application for erection of six dwellings and alterations to the existing public house.

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

RESOLVED –

- (i) Permission be granted subject to:
 - a. the prior completion of a S106 agreement to secure an obligation to highways to deliver a traffic calming scheme;
 - b. the planning conditions contained in the officer's report;
- (ii) The Planning Manager be granted delegated powers to determine the final detail of planning conditions;
- (iii) The Planning Manager be granted delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

119 19/00573/FUL - LAND REAR OF 125 - 131 LUTTERWORTH ROAD, BURBAGE

Application for conversion of existing building to residential (C3) use and single storey extension to side.

At this juncture, Councillor Lynch stated that he was a member of Burbage Parish Council's Planning Committee but had not commented on this application.

Notwithstanding the officer's recommendation that permission be granted subject to conditions, some members felt that the development would have an adverse effect on the countryside. It was moved by Councillor Walker and seconded by Councillor Cartwright that permission be refused.

Following advice from officers and a brief adjournment for the mover and seconder to draft their reasons for refusal, Councillor Walker, supported by Councillor Cartwright, withdrew his motion.

It was subsequently moved by Councillor Allen, seconded by Councillor Bray and

RESOLVED –

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

120 19/00252/FUL - 5 WHARF YARD, HINCKLEY

Application for erection of 14 apartments (revised scheme).

It was moved by Councillor Allen and seconded by Councillor Cartwright that permission be granted subject to conditions. Councillor Findlay proposed an amendment that an additional condition be included to require fibre optic broadband. The mover and seconder of the original motion supported the amendment which was CARRIED and subsequently

RESOLVED –

- (i) Permission be granted subject to:
 - a. Prior completion of a S106 agreement to secure the following obligations:
 - Off-site play and open space provision: £17,369.24
 - Off-site play and open space maintenance: £11,982.88
 - b. The conditions contained in the officer's report;
 - c. An additional condition requiring installation of fibre optic broadband;
- (ii) The Planning Manager be granted delegated powers to determine the final detail of the planning conditions;
- (iii) The Planning Manager be granted delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

121 19/00625/DEEM - AMBION COURT, SOUTHFIELD WAY, MARKET BOSWORTH

It was noted that this application had been withdrawn from the agenda.

122 APPEALS PROGRESS

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

RESOLVED – the report be noted.

(The Meeting closed at 7.52 pm)

CHAIRMAN

- 2.2. Condition 11 of the planning permission (reference 10/00332/FUL) restricts the hours of operation for deliveries to and dispatches from the site as follows:
- 'No deliveries shall be taken at or dispatched from the site outside the hours of 6.00am to 7.00pm Mondays to Fridays and 8.00am to 3pm on Saturdays nor at any time on Sundays, Bank or Statutory Public Holidays.'*
- 2.3. The reason for the imposition of the condition was to define the planning permission as then applied for and to provide control, via the requirement for a further planning application in respect of any future extension of the permitted hours for further impact assessment, in order to protect the amenity of adjacent and nearby residential properties from noise and disturbance from activities within the site. The 2010 application did not however restrict the number of HGV movements to or from the site or restrict the movement of vehicles along the approved HGV routes to and from the site, only the times for deliveries to and dispatches from the site itself.
- 2.4. This application seeks to vary the condition to provide more operational flexibility and extend the hours of operation for deliveries to and dispatches from the site to:
- Mondays to Fridays (including Bank Holidays) 06.00 to 23.00 hours
 - Saturdays 08.00 to 18.00 hours
 - Sundays 09.00 to 13.00 hours
- 2.5. The information submitted to support the application states that Poundstretcher Limited has undertaken a relocation of their head office and operations from its Huddersfield site to the Desford site, consolidating into a single UK head office. The consolidation of the two sites at Desford has resulted in a need for more flexibility in terms of the times that deliveries can be made to and dispatched from the site. This consolidation has already occurred and did not need planning permission.
- 2.6. A Planning Statement, Noise Impact Assessment and supplementary note, Highway Impact Statement and supplementary Highway Impact Technical Note have been submitted to support the application.
- 3. Description of the Site and Surrounding Area**
- 3.1. The application site covers an area of approximately 6.8 hectares and is located within an allocated employment site to the south of Desford Lane in the countryside between Desford and Kirby Muxloe (site reference DES31). The majority of the site is occupied by the warehouse building along with office buildings, ancillary infrastructure and associated internal access and parking areas. The site is protected by a perimeter security fence and also by CCTV coverage. There is mature planting to the frontage of the site with Desford Lane that provides screening although there are views into the site at various points.
- 3.2. There is an associated warehouse building to the east and other commercial/employment uses including a waste paper and cardboard merchants beyond. To the west there is a recreation ground within the applicant's ownership and an unrelated neighbouring dwelling, with a small business park (predominantly offices) beyond. To the north there is an isolated dwelling with open fields in agricultural use. To the south lie the former Desford Railway Junction and a watercourse beyond.

4. Relevant Planning History

08/00187/COU	Change of use of existing factory and warehouse to warehouse and distribution	Permitted	07.05.2008
10/00332/FUL	Erection of warehouse (class B8 use)	Permitted	01.09.2010
12/00313/CONDIT	Variation of condition 16 of planning application 10/00332/FUL for the erection of warehouse (class b8 use)	Permitted	22.08.2012
12/00444/CONDIT	Variation of condition 12 of planning permission 08/00187/COU for change of use of existing factory and warehouse to warehouse and distribution	Permitted	21.08.2012

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. Responses from 331 separate addresses have been received as a result of public consultation from residents of both Hinckley and Bosworth borough and residents of a neighbouring borough through which a designated HGV route to the site passes.
- 5.3. One letter of support has been received subject to the number of deliveries being restricted and traffic calming measures being implemented to control traffic speed.
- 5.4. The responses received raise objections to the proposal on the following grounds:
 - 1) Adverse impacts from a significant increase in HGV traffic
 - 2) Adverse impacts on quality of life or residents along the HGV routes
 - 3) Adverse impacts on highway and pedestrian safety
 - 4) Road and junctions on route are not suitable for HGV traffic particularly an operation of the type concerned (not wide enough and narrow pavements)
 - 5) HGV's mounting pavement and opposite side of road with subsequent damage to highway infrastructure
 - 6) Inadequate pedestrian crossings on the HGV routes
 - 7) Additional traffic congestion
 - 8) Highway Impact Assessment is flawed and should not be relied upon
 - 9) Traffic survey is out of date – changes on A50
 - 10) Additional traffic from proposed major residential scheme in Kirby Muxloe not taken into account
 - 11) Increase in noise pollution, vibration and disturbance to residents amenity along the routes, particularly outside normal working hours
 - 12) Increase in air pollution – increased risk to health
 - 13) Detrimental impact on character of rural village
 - 14) Detrimental to leisure activities in the surrounding area that use the rural roads including cyclists, walkers and horse riders etc.
 - 15) Detrimental to farming practices – movement of animals
 - 16) Applicant should contribute to improvements in highways infrastructure/road widening etc.
 - 17) Applicant should relocate to a more suitable site with adequate highway infrastructure
 - 18) Economic benefits do not outweigh adverse impacts on residents

- 19) Damage to Church and other buildings from vibrations
- 20) Breach of Human Rights Act.

5.5. Borough Councillor Lay (Markfield, Stanton & Field Head) objects to the application on the following grounds:

- 1) The proposal will significantly increase activity at this rural site that is inappropriate for large scale warehousing HQ operation as other sites are available close to major road networks
- 2) The consequent HGV traffic movements and extended window for deliveries/dispatch will significantly impact on the quality of life of residents living at Markfield and Field Head due to noise, vibration and pollution, including late evening and early morning hours
- 3) Alternative traffic management plans should be investigated including use of the A46/M1 junction off Ratby Lane as the shortest route to the main UK highway network
- 4) More HGV movements on Field head A50 roundabout will create longer wait times, more noise and pollution to neighbouring properties
- 5) Pollution levels are already problematic due to close proximity of main roads and increased traffic movements
- 6) The additional traffic proposed is likely to have an unacceptable impact on the surrounding highway network interfering with road safety, particularly for school children
- 7) Lack of positive economic or sustainable grounds for the application.

Should the application be recommended for approval, conditions for mitigation measures should be imposed and include:

- 1) Revision of operational hours to 8am to 6pm Monday to Friday only with no weekend operations
- 2) Send all HGV traffic towards the M1/A46 junction along Ratby Lane
- 3) Limit the number of HGV traffic movements.

5.6. Blaby District Council (Development Services and Environmental Services) object to the proposal raising the following issues and concerns:

- 1) The proposal will result in an increase in HGV movements on predominantly rural roads in the District over and above those already permitted
- 2) The increase in HGV movements will be predominantly outside of normal working hours and at weekends and Bank Holidays when residents would normally expect their residential amenity to be protected
- 3) Blaby District Council would not object to an increase in the hours and days as proposed on the strict proviso that the applicant company revert back to the originally approved and more suitable for purpose HGV route via Botcheston and Markfield to the A50 which would alleviate the impact on residents of Blaby District on the grounds of residential amenity, air quality concerns and the unsuitable nature of the roads to take additional HGV movements.

5.7. Desford Parish Council supports the application but requests financial contributions from the applicant company towards improvement of the junction of Botcheston Road and Desford Lane.

5.8. Kirby Muxloe Parish Council object to the application on the following grounds:

- 1) Kirby Muxloe has already experienced a dramatic increase in the number of HGV lorries using the route through the village

- 2) The road is not designed nor suitable for this amount of HGV movements let alone an increase that the proposed variation would bring about and traffic congestion occurs at the mini-roundabout
 - 3) The volume and weight of HGV traffic has already caused drains to collapse along Desford Road in Kirby Muxloe
 - 4) The increase in the hours of operation for deliveries will bring chaos and further danger to Desford Road, there have already been several 'near misses' involving delivery vehicles, pedestrians and cars
 - 5) The HGV's generate noise and air pollution and vibration due to the weight, volume and speed of these vehicles and to extend the hours outside normal working hours would have a detrimental effect to the quality of life of local residents
 - 6) Kirby Muxloe Parish Council ask that the applicant revert back to the route originally approved via Botcheston and Markfield which is a more suitable HGV route involving fewer residences and would alleviate the impact on residents of Kirby Muxloe in terms of residential amenity, air quality concerns and the unsuitable nature of Desford Road for HGV movements.
- 5.9. Markfield Parish Council object to the proposal raising the following issues and concerns:
- 1) Applicant's traffic survey is out of date since it predates A50 traffic calming measures which have increased traffic along Ratby Lane. An up-to-date traffic survey and highway impact report should be provided before a decision can be made
 - 2) Applicant's traffic survey does not accord with actual levels of HGV traffic or take into account leisure uses of the route
 - 3) Site has always been inappropriate for large scale warehousing and other sites are available and more suitable adjacent to major road networks
 - 4) As the applicant has decided to consolidate their operation on site regardless of the outcome of the application this indicates that they can and are prepared to function with existing access hours restrictions
 - 5) Current HGV movements already significantly impact on the living conditions of residents by way of noise, disturbance, pollution and highway safety
 - 6) The route to the site is along residential and rural roads that are narrow, have inadequate pedestrian footways and are unsuitable for concentrated HGV use
 - 7) Access hours should be more restricted in the early morning rather than relaxed.
- 5.10. Ratby Parish Council object to the proposal raising the following issues and concerns:
- 1) HGV's still access the site through Ratby despite the 7.5 tonne weight restriction
 - 2) Sunday and Bank Holiday operations would encroach on residents traffic free weekend
 - 3) The application site and nearby waste site both accommodate HGV's and cause regular traffic congestion
 - 4) Disturbance to residents along the routes to the site already causes problems and to increase operations is totally unacceptable.
- 5.11. County Councillor Bedford (Markfield, Desford & Thornton) objects to the proposal as it goes against the spirit of the original planning permission and would be detrimental to the amenity of local residents. The original restrictive conditions should be honoured and the relaxation in hours for delivery and despatch from the site refused.

- 5.12. County Councillor Breckon (Glenfields, Kirby Muxloe & Leicester Forests) objects to the proposal as HGV's are causing major pollution issues, congestion issues and dangerous road situations as the roads used were not designed for HGV's. To extend what already exists without major contributions to road improvements to mitigate any impacts is unjust, unfair and un-proportional.
- 5.13. Edward Argar, Member of Parliament for Charnwood has written to support and echo the objections of his constituents in Kirby Muxloe to the significant adverse impacts on the amenity of residents from the proposed increases in HGV movements through the village and from the resulting increase in noise, congestion and pollution and adverse impacts on highway and pedestrian safety from the use of unsuitable roads. The support for businesses, jobs and the local economy has to be balanced against protecting the quality of life of residents. The current arrangement strikes a fairer and more appropriate balance than what is proposed and the application should be rejected.
- 5.14. Kirby Muxloe HGV Action Group and other third parties have submitted detailed monitoring logs of vehicles going into and out of the application site for a number of specific dates, including video clips and photographs of the application site entrance. The submitted logs do not suggest any significant breaches of the hours restrictions but do suggest that the number of vehicles entering and leaving the site far exceed the figures quoted within the submitted Highway Impact Assessment and suggest that a greater proportion of vehicles use the Kirby Muxloe route rather than the Markfield route and therefore the split of traffic movements between the two approved routes to and from the site is not 50:50 as claimed in the application.

6. Consultation

- 6.1. Leicestershire County Council (Highways) has assessed the submitted information and advises that it cannot be demonstrated that the proposed variation of condition would have a severe impact on the highway or be detrimental to highway safety. In respect of the monitoring logs submitted, on the basis that existing HGV movements to and from the site are not restricted by planning condition either in terms of the number or designated HGV route choice, the information submitted is not considered to be applicable to the current planning application.
- 6.2. The Borough Council's Highways Consultant has assessed the submitted information and advises that it demonstrates that there is no significant impact on the highway network during peak hours in terms of capacity as the extended hours of operation are outside of the morning and evening peak traffic periods. The highway network has sufficient capacity to accommodate the increased HGV activity during the extended hours. The analysis of accident data along the two main traffic routes around the site has concluded that there are no specific highway safety concerns, which is also the view of the Local Highway Authority. There would be no significant impacts on the highway network as a result of the proposed extension of operating hours.
- 6.3. No objection subject to a condition for a Noise Management Plan has been received from Environmental Health (Pollution).
- 6.4. Leicestershire Police advise that they have received complaints from residents in Desford, Kirby Muxloe, Markfield and Ratby concerning highway safety due to the parking of HGV's at the road side, the number of HGV movements, the breach of weight limit restrictions and concerning quality of life and therefore raise awareness of the potential impact of the increase in business hours on the community.
- 6.5. No responses have been received at the time of writing this report from Network Rail.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester
- Policy 14: Rural Areas: Transport

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM19: Existing Employment Sites

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Employment Land and Premises Review (2013)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Highway network and highway safety impacts
- Amenity/Environmental impacts
- Conditions

Assessment against strategic planning policies

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications.

8.3. The relevant development plan documents in this instance consist of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).

8.4. The principle of development of the site for Class B8 uses (Storage and Distribution) has already been established through the implementation of previous planning permissions, including the size and scale of the existing warehouse and ancillary buildings within the site. The site is identified as a designated employment site (reference DES31) within the adopted SADMP. The latest Employment Land and Premises Review (2013) identifies the site as a fit for purpose category 'B' site and recommends that the site be retained for 100% employment use.

8.5. Policies 7 and 8 of the adopted Core Strategy support employment provision in settlements identified as 'Key Rural Centres'. In this case, this designated employment site is located outside the settlement boundary where Policy DM4 of the adopted SADMP applies. However, no changes are proposed to the building or ancillary structures and therefore the proposal would not conflict with Policy DM4.

8.6. Policy 19 of the adopted SADMP seeks to retain designated suitable employment sites. Section 6 of the NPPF (2019) seeks to build a strong, competitive economy

and states that decisions should help create conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity, including rural areas.

- 8.7. The information submitted to support the application states that consolidation of the two sites at Desford has resulted in a need for more flexibility in terms of the times that deliveries can be made to and dispatched from the site. The original application had no limit to the number of HGV movements and therefore additional HGV movements could occur due to the consolidation of the sites without planning permission. However, they would be condensed within the hours restriction currently in place.
- 8.8. In policy terms the extension to the hours between which deliveries to and dispatches from the site could occur would be acceptable in principle subject to all other planning matters and material considerations being satisfactorily addressed.

Highway network and highway safety impacts

- 8.9. Policy DM17 of the adopted SADMP supports development proposals where, amongst other matters they demonstrate that there is not a significant adverse impact upon highway safety and, in the case of development that generates significant movement, where it can be demonstrated that the residual cumulative impacts of development on the transport network are not severe.
- 8.10. Paragraph 109 of the NPPF (2019) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.11. A Highways Impact Assessment and Supplementary Technical Note have been submitted to support the application and define the scope of the proposal. For clarity, the application seeks to extend the hours between which deliveries can be made to and dispatched from the application site itself. It does not seek permission for the consolidation of the Huddersfield site at the Desford site as this can, and has, been carried out under the existing planning permission. There are no planning restrictions on the number of HGV movements to or from the site or the movement of vehicles along either of the approved HGV routes to and from the site, only the times for deliveries to and dispatches from the site itself.
- 8.12. Objections to the application have been received on the grounds that the roads and junctions on route to the site from the strategic highway network are not suitable for additional HGV traffic, particularly a distribution operation of the type concerned.
- 8.13. However, there are currently two County Council designated routes which allow HGV delivery vehicles to access the site (and many other commercial operations in the wider area) from the designated strategic highway network. These are:
- Route One – west from the site along Desford Lane/ north along Thornton Lane / northwest along A50 / M1 north (total route length 9.4 kilometres).
 - Route Two – east from the site along Desford Lane / southeast along Ratby Lane / north along Ratby Lane / A46 / M1 south (total route length 5.5 kilometres).
- 8.14. Objections have been received on the grounds that the proposal will result in increases in traffic movements, particularly HGV's, that will cause additional traffic congestion at junctions and would also result in adverse impacts on highway and pedestrian safety, by virtue of the nature and width of both routes to and from the application site and inadequate/narrow pavements and inadequate pedestrian crossings.

- 8.15. As previously identified, both routes are County Council designated HGV routes deemed to be suitable for such use by HGV's. There are currently no restrictions for drivers to use either Route One or Route Two, although the applicant suggested that there is an approximate 50/50 split of HGV's utilising each route for those travelling either north or south. The data evidence within the Highways Impact Assessment suggests that additional traffic movements to and from the site (in particular HGV's) will not be significant when assessed against existing traffic movements along these two designated HGV routes. The additional hours for delivery to and dispatch from the site sought through this application relate to hours that are outside the peak network periods and therefore no route or junction capacity issues are identified.
- 8.16. The Highways Impact Assessment includes an assessment of the most recently available 5-year period (1 May 2013 to 30 April 2018) Personal Injury Accident (PIA) records for the local area obtained from Leicestershire County Council, to determine whether there are any existing highway safety issues that could potentially be exacerbated by any increase in traffic movements associated with the proposals. The PIA data analysis identified no particular road safety issues along either of the designated HGV routes which could be exacerbated by the proposals. The assessment therefore concludes that no mitigation measures would be required in respect of highway or pedestrian safety.
- 8.17. In objection to the application, Kirby Muxloe HGV Action Group and other third parties have submitted detailed monitoring logs of vehicles going into and out of the application site for a number of specific dates, including video clips and photographs of the application site entrance. The submitted logs do not suggest any significant breaches of the existing hours restrictions but do suggest that the number of vehicles entering and leaving the site far exceed the figures quoted within the submitted Highway Impact Assessment and suggest that a greater proportion of vehicles use the Kirby Muxloe route rather than the Markfield route and therefore the split of traffic movements between the two approved routes to and from the site is not 50:50 as claimed in the application.
- 8.18. The Local Highway Authority (LHA), Leicestershire County Council, has assessed the submitted highways related information, including an informal assessment by Lennon Transport Planning submitted on behalf of residents of Kirby Muxloe and the detailed monitoring logs, video clips and photographs which, along with other objectors, raised a number of concerns regarding the robustness of the information/data within the submitted Highways Impact Assessment. The Personal Injury Collision (PIC) data for the last 5 years has also been reviewed by the Local Highway Authority.
- 8.19. Based on a review of the transport evidence submitted, the advice of the Local Highway Authority is that it cannot be demonstrated that the proposed variation of condition would have a severe impact on the highway network, or be detrimental to highway safety. On the basis that existing HGV movements to and from the site are not restricted by planning condition either in terms of the number or designated HGV route choice, the information submitted is not considered to be applicable to the current planning application. Therefore no additional control measures are required. This view is supported by the Borough Council's Highway Consultant.
- 8.20. By virtue of the submitted information and advice from the Local Highway Authority, the proposed extension of hours for deliveries to and dispatches from the site are not considered to result in any significant or severe adverse impacts on the highway network or highway or pedestrian safety and the proposal would therefore be in accordance with Policy DM17 of the adopted SADMP and paragraph 109 of the NPPF (2019).

Amenity/Environmental impacts

- 8.21. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings, including matters of noise, vibration and air quality. Policy DM7 of the adopted SADMP seeks to ensure that development would not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity and will not contribute to poor air quality.
- 8.22. Paragraph 180 of the NPPF (2019) states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution and health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.23. Objections to the application have been received on the grounds that the proposal will result in adverse impacts on the quality of life of residents along both the designated HGV routes and near the site through an increase in HGV traffic movements and resulting increase in noise pollution, vibration and disturbance to residents amenity outside normal working hours and at weekends and Bank Holidays when the rural environment is generally more tranquil. Objections are raised in respect of adverse impacts on health from air pollution from additional HGV traffic movements. Objections are also raised on the grounds that additional HGV traffic movements would be detrimental to leisure and farming activities in the surrounding area that use the rural roads including cyclists, walkers and horse riders etc.
- 8.24. This application seeks to vary condition 11 of planning permission 10/00332/FUL to extend the time period between which deliveries to and dispatches from the site can be undertaken. Condition 11 currently restricts these activities as follows:
- 'No deliveries shall be taken at or dispatched from the site outside the hours of 6.00am to 7.00pm Mondays to Fridays and 8.00am to 3pm on Saturdays nor at any time on Sundays, Bank or Statutory Public Holidays.'*
- Reason: To protect the amenities of neighbouring properties and to ensure that the permitted use does not become a source of annoyance to nearby residents to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.*
- 8.25. Policy BE1 of the Hinckley and Bosworth Local Plan (2001) has since been replaced by Policy DM10 of the adopted SADMP.
- 8.26. Condition 11 of application 10/00332/FUL was imposed in order to define the permission and to provide control over any proposed future changes to these hours. The condition was imposed in order to protect the amenity of the occupiers of adjoining or nearby properties from noise or disturbance associated with the arrival, manoeuvring and parking of vehicles within the application site and loading and unloading activities within the site rather than the movement of vehicles along the designated HGV routes to the application site.
- 8.27. A Noise Impact Assessment and Supplementary Note have been submitted to support the application. The assessment relates to potential noise impacts on properties either adjacent to or close to the site from the extension of activities associated with delivery to and dispatch from the site over the extended hours applied for rather than impacts from traffic movements on distant properties along the HGV routes.

- 8.28. The Assessment concludes that during the proposed hours for deliveries to and dispatches from the application site, the predicted levels at the closest noise sensitive receptors are below the Lowest Observable Adverse Effect Level Criteria and in accordance with the requirements of the NPPF, the development is not expected to have an adverse impact on health or quality of life.
- 8.29. The Noise Impact Assessment and Supplementary note have been assessed by the Environmental Health (Pollution) team. The conclusions of the submitted Noise Impact Assessment are based on a number of assumptions regarding site operations (e.g. frequency of loading/unloading to each bay and the turning off of engines once docked). It is acknowledged that it is possible that nearby residential premises will be able to hear operations during hours when operations have not to date been heard, although these will be at noise levels within current guidelines if the assumptions within the assessment are a true reflection of how the site currently operates and will continue to operate. Environmental Health (Pollution) therefore raise no objection to the proposal to vary the hours condition on the original planning permission subject to the imposition of a condition requiring the submission of a Noise Management Plan to ensure that the site operates and will continue to operate in the future in accordance with the assumptions made within the submitted assessment.
- 8.30. The Environmental Health (Pollution) team also advise that those residential premises on route to and from the site will be exposed to a greater number of HGV drive-bys during the increased hours which will change their noise environment, although these will be at noise levels within current guidelines. Environmental Health (Pollution) therefore raise no objections to the application on grounds of adverse impacts from noise or on air quality and therefore do not recommend any conditions by way of mitigation relating to the amenities of residential properties on the routes to and from the site.
- 8.31. The data submitted within the Highways Impact Assessment provides evidence that both County Council designated HGV routes to and from the application site are already used extensively by HGV traffic to access a number of other industrial/commercial sites within the surrounding area during the extended hours applied for through this application i.e.
- Mondays to Fridays between 19.00 – 23.00 hours (additional 4 hours/day)
 - Saturdays between 15.00 – 18.00 hours (additional 3 hours/day)
 - Sundays between 09.00 – 13.00 hours (additional 4 hours/day)
- 8.32. The Highways Impact Assessment also provides evidence that the proposal would not result in a significant increase in traffic movements during the proposed extended hours over and above the current/existing situation.
- 8.33. There is no evidence to suggest that there is any significant air quality issue on either of the two designated HGV routes to and from the site.
- 8.34. There is no evidence to suggest that any damage to buildings along the route is as a result of vibrations from traffic movements associated with the application site.
- 8.35. Notwithstanding the evidence submitted regarding highway safety, noise and pollution, it is clear from the evidence submitted by local residents that the designated HGV route through Kirby Muxloe gives rise to significant adverse impacts on the amenity of residents through the coming and goings of large heavy goods vehicles on narrow roads which consequently bring the traffic movements and disturbance closer to residential properties. It is therefore considered that any extension to the current hours is likely to give rise to further adverse impacts for longer periods during the week and significantly increasing hours over the weekend

including a Sunday where currently no deliveries are allowed. It is considered that the increase in operating hours would significantly impact on the living conditions of residents living along the route and would be detrimental to their residential amenity and therefore would be contrary to Policy DM10 of the adopted SADMP.

Conditions

- 8.36. The original planning permission 10/00332/FUL was subject to 19 conditions. As this variation of condition application would result in a new planning permission for the site in the event that the application is permitted, it is necessary to consider the previously imposed planning conditions and whether or not they are still necessary, or need amendment, or whether any additional/new conditions are necessary to ensure satisfactory development.
- 8.37. Condition 1 (time for commencement) is no longer necessary as the development has been implemented. Condition 16 (routeing) is no longer relevant, as it was removed by planning permission 12/00313/CONDIT.
- 8.38. Condition 4 (drainage), conditions 5 and 6 (ground contamination), condition 7 (oil/petrol separators), condition 9 (levels), condition 10 (external materials), condition 12 (landscaping) and condition 13 (landscaping implementation and maintenance), condition 17 (access gates/barriers) and condition 19 (employment) have been discharged and were pre-commencement/prior to occupation conditions and can be omitted.
- 8.39. Conditions 2 (approved plans), condition 3 (use restriction), condition 14 (cycle parking facility retention), condition 15 (lighting scheme) and condition 18 (external storage) remain necessary to define the permission and ensure satisfactory development.
- 8.40. Condition 11 (delivery/dispatch restriction) would need to be amended in the event that this application is approved to refer to the extended hours.
- 8.41. Condition 8 (noise management and mitigation) would need to be amended to require the submission of the additional details outlined in this report.

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.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights,

specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The application relates to an existing and established distribution warehouse on a designated employment site. The application seeks to vary condition 11 of planning permission 10/00332/FUL to extend the hours between which deliveries to and dispatches from the site can be undertaken.
- 10.2. For the reasons outlined within this report, the proposal is not considered to result in any significant or severe adverse impacts on the highway network, highway or pedestrian safety, it would however give rise to further adverse impacts to nearby residents which would be detrimental to their residential amenity and the application is therefore contrary to Policy DM10 of the adopted SADMP.

11. Recommendation

- 11.1. **Refuse planning permission** for the following reason:

- 1. The application seeks to extend the hours of operation for deliveries along a route which already has significant impacts on the living conditions of residents. The increase in hours would give rise to further significant impacts for longer periods during the day and significant periods over the weekend which would be detrimental to the residential amenity currently experienced by residents along the defined route and is therefore contrary to Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2016.

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Planning Committee 17 September 2019
Report of the Planning Manager

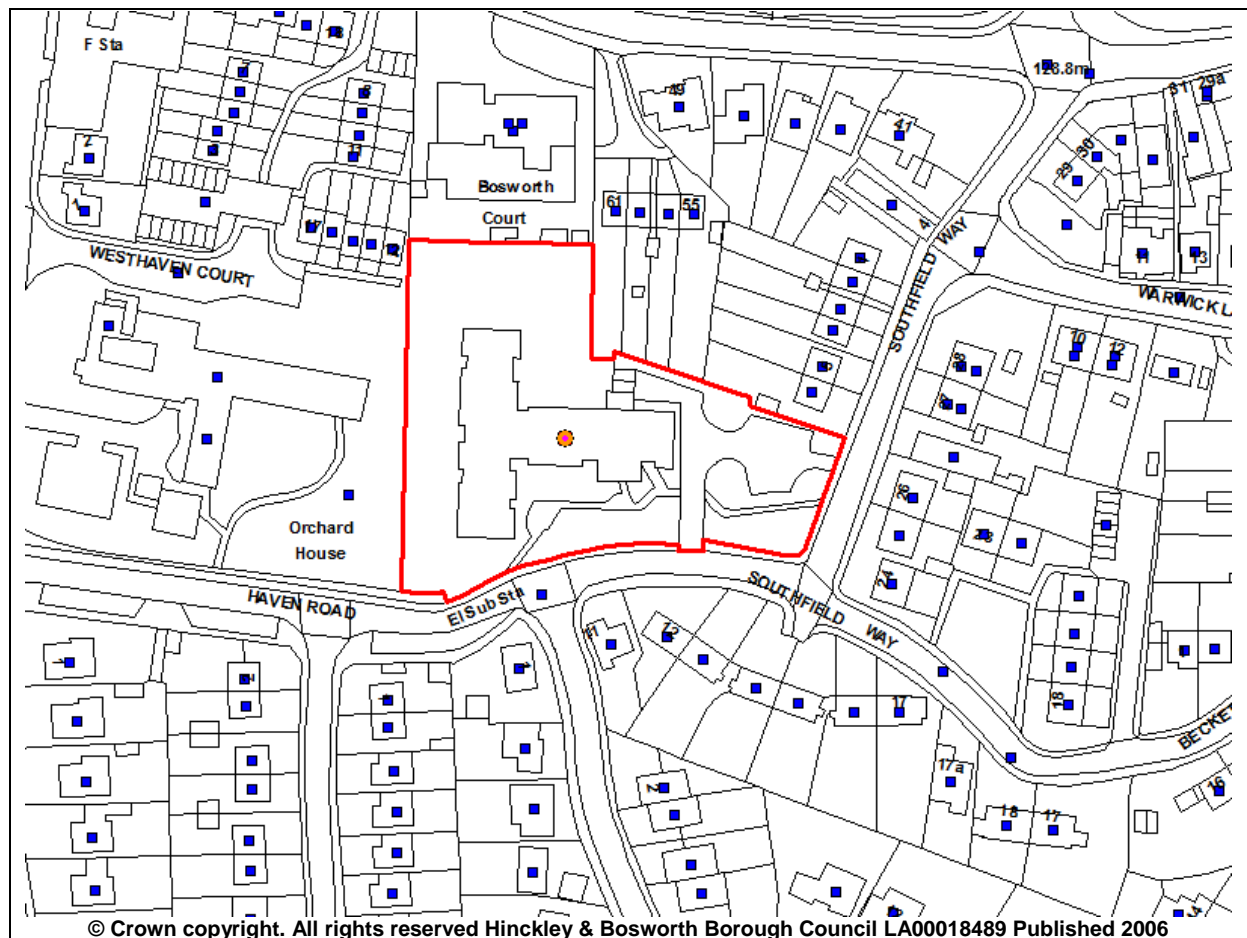
Planning Ref: 19/00625/DEEM
Applicant: Hinckley & Bosworth Borough Council
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Ambion Court Southfield Way Market Bosworth

Proposal: Demolition of the existing sheltered flats and the construction of 24 sheltered flats (for the over 60s) and three bungalows with associated car parking and landscaping.



1. Recommendations

1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - Affordable Rented Dwellings
- The submission of bat activity surveys and any necessary mitigation proposals
- Planning conditions outlined at the end of this report.

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

- 1.3. That the Planning Manager 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 the demolition of the existing sheltered housing complex, which comprises 26 bedsits and 5 flats, which is warden controlled, and the erection of a replacement sheltered housing scheme which would comprise 24 flats, in addition to the erection of 3 one bedroomed bungalows, for over 60s.
- 2.2. The main building, would be positioned within the west portion of the application site, and would be a linear building, running south to north, set in from the western boundary and upon a similar footprint of the existing building, with access and parking situated to the east of the building, providing the main entrance point into the building. Access would be taken from the existing point of access along Southfield Way.
- 2.3. The bungalows would be situated and confined to the east side of the application site, and would introduce an additional access from Southfield Way. Plots 1 and 2 would be set back from the highway, providing parking to the front. Plot 3 would be situated upon the corner of Southfield Way, forward of plots 1 and 2, with parking proposed to the rear.
- 2.4. The proposed development would provide 19 parking spaces across the application site.
- 2.5. A Design and Access Statement, Ecology Report, Affordable housing statement, Drainage statement, Tree Survey and a Geo Environmental Appraisal Phase 2 in support of the application.

3. Description of the Site and Surrounding Area

- 3.1. The application site is situated within the settlement boundary of Market Bosworth, and within an existing residential area. The existing sheltered housing building is currently vacant and takes the form of a 'T' shaped red brick and tile building, and is two storeys in scale, however the roof pitch is shallow. Parking and access serving the building is situated to the east of the building. The site is relatively flat, however levels do fall towards the east.
- 3.2. To the north of the application site, the building backs onto Bosworth Court, and a row of terraces houses, all of which are two storey in scale, and to the south two storey semi detached dwellings, set back from the highway. Facing onto the site to the east, are a number of bungalows. To the west, the site is immediately bound by Orchard House, which is a care home facility, however between the application site and Orchard House planning permission has been granted for the development of 4 two storey dwellings.

4. Relevant Planning History

89/01156/4D	Erection of 6 x 2 bedroom bungalows and alterations to 2 existing flats housing committee 28 09 89 minute no 434	Permitted	24.10.1989
74/00009/4D	Erection of o a p flatlets	Approval of Reserved matters	25.06.1974

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. No letters of representation have been received during the course of the application.

6. Consultation

- 6.1. No objections, some subject to conditions, have been received from:-
Environmental Health (Pollution)
Environmental Health (Drainage)
Severn Trent
Leicestershire County Council (Highways)
Leicestershire County Council (Highways)
Waste Services
- 6.2. Further comments are awaited from Leicestershire County Council (Ecology)
- 6.3. No comments have been received from:-
Cycling UK
Leicestershire Fire and Rescue Service
Market Bosworth Neighbourhood Forum
- 6.4. Market Bosworth Parish Council have provided support for the application, and advise the works would create welcome facilities within the Parish

7. Policy

- 7.1. Market Bosworth Neighbourhood Plan 2014-2026
- CE1: Character and Environment
- 7.2. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density and Mix
- 7.3. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
- 7.5. Other relevant guidance
- Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA) (2017)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Affordable housing
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Contamination
- Ecology
- Infrastructure contributions
- Other matters

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.4. The application is located in the settlement boundary of Market Bosworth. Market Bosworth is identified as a Key Rural Centre within the Policy 11 of the Core Strategy. These centres are settlements outside the National Forest and away from the edge of Leicester that provide services to their rural hinterland.
- 8.5. Policy 11 of the Core Strategy seeks to support the local services in Market Bosworth and maintain rural population levels, and developments should seek to meet the needs of the Market Bosworth, taking into the account the latest Housing Market Assessment and local housing needs surveys as detailed in Policy 15 and 16. The proposal seeks to replace an existing sheltered housing building, to provide 24 sheltered flats and 3 one bedrooomed bungalows, in replacement of 26 bedsits and 5 flats, within the settlement boundary of Market Bosworth. The scheme seeks to provide improved and updated living accommodation within the settlement of Market Bosworth for existing residents of the current facility and new residents of the same demographic.
- 8.6. Given the ageing population and higher levels of disability and health problems within the older generation, the Housing Economic Needs Assessment identifies that there is likely to be an increase requirement for specialist housing options, including the need for step free living accommodation, such as bungalows.
- 8.7. In addition the Lead Commissioner – Older People at Leicestershire County Council has stated that their strategic priority is to focus revenue and capital expenditure on positive alternatives to residential and nursing care, such as extra care/assisted living and other community-based services, which maximise individual's opportunities to remain independent and manage their own care.

- 8.8. The proposal seeks to replace an existing sheltered housing building, to provide 24 sheltered flats and 3 one bedroomed bungalow, in replacement to 26 bedsits and 5 flats, within the settlement boundary of Market Bosworth, and within close proximity to the centre of Market Bosworth.
- 8.9. The proposal would provide an enhanced and high quality replacement facility which would respond to the need of the older demographic within a sustainable location, close to services. It is considered that the proposed development would accord with Policies 7, 15 and 16 of the Core Strategy, Policy DM1 of the SADMP and the overarching provisions of the NPPF.

Affordable housing

- 8.10. 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 seeks the provision of 40% affordable housing on all sites in rural areas with a tenure split of 75% for social rent and 25% for intermediate tenure.
- 8.11. This is an application for the development of a sheltered housing scheme in Market Bosworth. The scheme replaces a previous sheltered scheme of 24 bedsits and 5 flats for people over 60. This scheme was no longer fit for purpose and will be replaced by 24 one bedroomed self contained apartments, and attendant communal areas including a common room, laundry, hairdressing room and scooter storage facilities. The application also includes 3 one bedroomed bungalows on the east of the site.
- 8.12. The scheme would provide support on site from a visiting warden but care services will be commissioned separately, from independent providers. For this reason, the scheme falls under class use C3 (dwelling houses) rather than C2 (residential care). Consequently, policies relating to the provision of affordable housing set out in Policy 15 of the Core Strategy will apply, which includes a requirement for 40% affordable housing to be provided on sites of 4 dwellings or more or 0.13 hectares or more in rural areas. The scheme also exceeds the National Planning Policy Framework requirement which sets the threshold at 10 dwellings or more.
- 8.13. This scheme is however the replacement of a council owned sheltered facility and all of the properties will be for affordable rent. There are 11 Council owned sheltered schemes in the Borough, including Ambion Court, but provision is concentrated in the urban areas of the Borough and the nearest alternative sheltered housing is situated in Barlestone.
- 8.14. Market Bosworth is a high demand village well connected to the wider Borough and provides a number of services including shops, pubs and restaurants and a library. There is a healthy waiting list for general needs accommodation including 482 applicants for 1 bedroomed accommodation. Of this number, 182 are over 60 and therefore could potentially apply for sheltered accommodation. It should also be noted that when the existing scheme was closed, a number of residents were temporarily moved pending the redevelopment of the scheme, and these residents have the right to return to live at Ambion Court should they wish to do so. Despite the previous scheme only offering shared bathroom facilities to residents, vacancies did not prove problematic to let. It is therefore expected that the provision of a modern sheltered housing development in a desirable village will attract a high level of interest.
- 8.15. Whilst it is common practice for new affordable housing in rural areas to require lettings to be offered in the first instance to people with a connection to the village, specialist accommodation is of its nature an exception to this requirement. Sheltered housing forms part of the specialist provision of supported

accommodation in the Borough and therefore serves the need of the wider community. Any qualifying household who has a connection to the Borough will therefore be eligible to be considered for accommodation at the scheme.

- 8.16. Overall it is considered that the proposal is compliant with the provisions of Policies 15 and 16 of the Core Strategy.

Design and impact upon the character of the area

- 8.17. Policy DM10 of the SADMP states that developments will be permitted providing that the design respects the scale, proportions and height of the existing building, neighbouring structures and overall street scene, and building materials respect the materials of existing, adjoining/neighbouring buildings and the local area generally. Policy CE1 requires that all new development within Market Bosworth should be in keeping with its Character Area with regards to scale, layout and materials to retain local distinctiveness and create a sense of place. It is considered that the development proposed would meet these aims and requirements for the reasons given below.
- 8.18. The site is identified as being within character area D 'Suburban residential' within the Market Bosworth Neighbourhood Plan (MBNP). This area is characterised by:
- Detached and semi-detached, two storey dwellings
 - Long open aspect front gardens providing a sense of openness
 - Wide, open aspect grassed verges at road entrances
 - Public open spaces dividing housing
 - Well proportioned uniform plots with properties set back from the pavement;
 - Garages and driveways
- 8.19. The site is situated in a predominately residential area, with both a mix of care homes and single family dwellings present within the area. The scale of development within the area is varied with two storey and single storey dwellings present within the street scene, as well as the presence of utilitarian designed building, one of which this application seeks to replace. The proposed development would demolish the existing building, and erect a rectangular linear building as a replacement, which would be two storeys in scale. The proposed building would provide a central entrance which would open into a communal area. The ground floor would include a dining area, lounge, library and hairdressers, with two corridors extending north and south serving the respective flats. The mass of the proposed building would be broken up through changes within the elevations, including areas of glazing, the incorporation of a first floor external seating area and balconies.
- 8.20. The orientation of the building has been informed by the orientation of the sun to ensure that all flats benefit from natural sunlight at some point during the course of the day. However this would result in the gable end of the building facing onto Southfield Road. The existing building due to its 'T' shaped footprint has a gable end facing onto Southfield Way, and therefore this relationship already exists. The proposed development also provides an opportunity to enhance the south facing elevation, fronting onto Southfield Way, which is currently a gable wall, with a single window at first floor and a ground floor door. Although the proposed development would maintain a gable end adjacent to Southfield Way, its mass and appearance would be reduced due to the gable being stepped, and would incorporate areas of significant glazing at both ground and first floor to serve a communal seating area, as well of habitable windows to the flats, providing an improved relationship between the development and Southfield Way, and a more active frontage.
- 8.21. In addition to the sheltered flats, the scheme also seeks to provide three 1 bedroomed bungalows, which would be situated to the east of the main building and on a corner within Southfield Way, facing onto the existing bungalows on the

opposing side. Plot 3 would be situated on the south east corner, and has been designed to be dual frontage, with habitable windows and an open frontage proposed along the east edge with the entrance provided within the south elevation. To the north of Plot 3, Plots 1 and 2 faces east, set back from Southfield Road, with parking to the front. A section of the existing hedgerow and a number of trees would have to be removed along this eastern boundary to facilitate the bungalows.

- 8.22. The site provides a degree of tree stock, which is within a semi-mature to mature age range, and is predominately broadleaved species typical of a sub urban area. The spacing between the trees has allowed for incremental growth of canopies. The application has been supported by a tree survey, which identifies 8 Category B trees, 12 Category C trees and 2 Category U trees. The majority of trees that would be required to be removed to facilitate the development would fall within Category C which is low value, with an exception of 4 Category B trees. The survey goes on to state that given the root protection zones required and the siting of the trees, the redevelopment of the site would not be viable without the removal of some of the existing trees. The tree survey also identifies the necessary root protection areas and build method which should be employed to the trees which are to be retained, and could be conditioned should permission be granted.
- 8.23. The proposed development also includes scooter stores for both sheltered flats and the bungalows, to aid accessibility for occupiers. It is also intended that the development will incorporate renewable energy in the form of solar panels, as well as a highly insulated fabric first build, to seek low energy solutions.
- 8.24. The proposed layout includes landscaped gardens and additional planting for future occupiers to circulate externally, as well as formal parking provision being provided within the site, denoted through a change of materials and set back from the frontage to provide a buffer and soften the appearance of the hard surfacing.
- 8.25. By virtue of the scale, layout, design and appearance, the proposal would complement the character and appearance of the surrounding area and would therefore be in accordance with Policy DM10 of the adopted SADMP in this respect and Policy CE1 of the Market Bosworth Neighbourhood Plan.

Impact upon Trees

- 8.26. As previously stated the application has been accompanied by a Tree Survey, the report considers the impact that the development proposal may have upon the surrounding trees and providing any mitigation measures. The development would result in the loss of existing tree stock on site, due to the proposed footprint of the development and the inclusion of bungalows to the east of the application site, to enable development.
- 8.27. Concerns have been raised by the Tree Officer relating to the loss of the trees on site, as the proposed development would remove prominent trees within the frontage of the application site, including a Norway Maple and a Silver Birch, in addition to the long term retention of proposed retained trees and their compatibility with the proposed development. However due the location of the trees within the site, options to develop the scheme around the affected trees would render the scheme undeliverable. Given the identified need of this type of development which is specifically designed to cater for a specific demographic of the population, the loss of the trees are considered to be outweighed by the significant social benefits of the proposal.
- 8.28. The development would provide an opportunity for the inclusion of a well designed landscaping scheme on site. It is therefore considered that the loss of trees would not provide a reason not to support the proposal given the on site mitigation that could be provided and the significant social benefits of this development.

Impact upon neighbouring residential amenity

- 8.29. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings.
- 8.30. The application site is situated within a predominately residential area, to the south east and north of the site is flanked by residential dwellings, and to the west is a further care home facility. The proposed replacement sheltered flat building, would be situated in a similar position of the existing building, with the gable end of the building facing towards the junction of Southfield Way with Northumberland Avenue. The nearest dwelling, which the south gable of the sheltered flat building would face towards is No.1 Northumberland Avenue, which is situated on a lower land level to that of the application site. The south facing elevation of the proposed sheltered flat building would face towards this dwelling. No. 1 Northumberland Avenue with a separation distance of approximately 22 metres. It is not considered that the proposed development would be unduly overbearing upon this dwelling, nor would it result in any adverse overlooking.
- 8.31. To the east of the application site, there is a proposal for four dwellings whose side elevations would face towards Ambion Court, a Leylandi hedge is present along the boundary between the proposed dwellings and the application site. It should be noted that development has not commenced on site and therefore the permission has not been implemented. However the west facing elevation of the proposed building would be positioned approximately 11 metres from the shared boundary. Habitable windows would, be positioned along this elevation, and would face towards the proposed amenity space serving the dwellings. This relationship is currently present with the existing building, and therefore this proposal would not alter this accepted relationship, should the development be brought forward.
- 8.32. In relation to the proposed bungalows, situated to the east of the application site. Plots 1 and 2 would face west and plot 3 south. Plot 1 and 2 would be set back from Southfield Way by approximately 9.2 metres, to allow for 2 parking spaces. Plots 1 and 2 would face the principal elevations of No.25 and 26 Southfield Way, which are bungalows situated on the opposite side of the road, with a separation distance in excess of 23 metres. Given this relationship and the proposed scale, the proposed development would not result in any adverse overbearing impact or overlooking to these properties. Plot 3 would be positioned on the corner and orientated south however habitable windows would also face east, towards No.24 Southfield Way, with a separation distance of approximately 22 metres and across a highway, this relationship is therefore not considered be adverse in terms of overlooking. The principal elevation of the proposed bungalow of plot 3 would face towards No.13 and 14 Southfield way, which are two storey dwellings set back from the highway. Given the proposed scale and the separation distance of approximately 24 metres, there would no adverse impact in terms of overlooking to these dwellings.
- 8.33. To the north of bungalow 1, is No.6 Southfield Way which is a two storey dwelling. Plot 1 would be set away from this north boundary by approximately 3.5 metres, and set back from the front elevation of No.6. Given the scale is limited to single storey and would be set away from the boundary, it is not considered that the proposed development would result in any adverse overbearing impact, nor overshadowing which would be detrimental to this dwelling.
- 8.34. The proposal would include a plant room, the doors of which would open west towards Orchard House. Details of the plant equipment including noise data has not been provided as part of this application and it is therefore considered necessary to impose a condition to ensure the details are agreed prior to first use of the building.

- 8.35. The proposed scheme would not result in any significant adverse impacts on the residential amenity of any neighbouring occupiers and would provide a satisfactory living environment for the future occupiers of the site. Due to the limited depths of the gardens serving the Bungalows, it is considered necessary to impose a condition to remove permitted development rights to ensure any additional alterations and extensions to dwellings are not carried out without consent, to allow full regard of neighbouring amenity. The scheme would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.36. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. Policy 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.37. The proposal would utilise the existing dropped kerb access along the southern side of the application site. In addition to this, the scheme seeks to construct a new access along the east of the application site onto Southfield Way to serve bungalow plots 1 and 3. This would require a new dropped kerb as well as the reinstatement of the existing dropped kerbs which appear to have served a historic access to the application site, which has since been blocked off with a hedgerow. The proposed development would also increase parking provision within the site from 11 to 19, which is a difference in 8 spaces.
- 8.38. The existing facility provides a total of 30 bedrooms, and the replacement scheme would provide 27 bedrooms. The proposal would be served by an on site manager working Mon- Fri office based hours, which would manage the building and offer welfare checks to maintain residents independence and well being, and would continue in the manner previously.
- 8.39. Southfield Way is an unclassified road with a 30mph speed limit. Leicestershire County Council (Highways) have considered the application and given the accesses provide adequate visibility and the fact that vehicles would be travelling at low speeds, there are no objections the proposed development, subject to conditions, which seeks to ensure that development is not occupied until visibility splays and accesses have been are provided in accordance with the submitted details, as well as the parking and cycle stores have be implemented and retained. As such subject to the imposition of conditions the proposal would not result in any significant adverse impacts on the local highway network or highway safety and would accord with Policies DM17 and DM18 of the SADMP.

Drainage

- 8.40. Policy DM7 of the SADMP seeks to ensure that development does not exacerbate or create flooding.
- 8.41. The Environment Agency flood maps identify the site as being located within Flood Zone 1 and do not highlight any concerns relating to surface water flooding. The application has been supported with a Drainage Strategy to demonstrate the proposed development would not have an adverse impact upon flood risk. The Local Lead Flood Authority have identify that it is a brownfield site with limited options for infiltration and detailed maintenance plans have not been included at this point. It is therefore considered necessary, to impose conditions, which seek a surface water drainage scheme to be submitted and agreed, details of the management of surface water on site during construction, and no occupation of the

development until details have been provided in relation to the long term maintenance of surface water drainage system have been submitted.

- 8.42. In terms of foul water, Severn Trent have considered the application, and subject to the imposition of a condition, which requires the submission of foul water drainage scheme to be submitted and agreed, offer no objections to the proposed development. It is considered that the development would be in accordance with Policy DM7 of the SADMP.

Contamination

- 8.43. Policy DM7 of the adopted SADMP requires that development proposals demonstrate that appropriate remediation of any contaminated land would be satisfactorily undertaken and that there would be no adverse impact on water quality.
- 8.44. Environmental Ground Investigation Reports (Phase I and Phase II) have been submitted to support the application. The application has been assessed by Environmental Health (Pollution) team. No objections are raised to the proposed development in principle. However, the Phase II report recommends further visits to characterise the gas regime, the site has been classified as a CS1 where gas protection measures are not required as part of the proposed development against carbon dioxide or methane gases. However, an allowance should be made for CS2 grade gas protection measures until the remaining two visits as identified within the Phase II investigation have been completed.
- 8.45. Conditions are therefore recommended to require additional ground contamination investigation and any necessary remediation to be undertaken and also if any land contamination not previously identified is encountered during development of the site. Such conditions are considered to be reasonable and necessary in order to ensure safe development of the site for the health and amenity of future occupiers. In addition given the application site is situated within a residential area, it is also considered necessary to impose a condition for the submission of a Construction Environmental Management Plan to be submitted, which seeks to mitigate and prevent dust, odour, noise, vibration, smoke, light and land contamination, and the limitation of construction hours. Accordingly the proposed development is considered to comply with Policy DM7 of the SADMP.

Ecology

- 8.46. Policy DM6 of the adopted SADMP seeks to conserve and enhance features of nature conservation value and retain, buffer or manage favourably such features.
- 8.47. An Ecology Report has been submitted to support the application. Leicestershire County Council (Ecology) has considered the application, and advises that although no habitats of importance were recorded on site and no evidence of protected species were found in the survey submitted, the existing building was assessed as having moderate bat roost potential and as such an internal inspection of the building is required. At the point of writing this report, an internal inspection has been carried out and the necessary reports compiled. An update by way of a late item will report the response from Leicestershire County Council (ecology) on the submitted bat report.
- 8.48. Accordingly subject further information and consultation with Ecology, the proposed development is considered to comply with Policy DM6 of the SADMP.

Infrastructure Contributions

- 8.49. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.50. The request for any planning obligations (infrastructure contributions) must be considered against the requirements contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations require that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

Health

- 8.51. The existing facility provides 30 bedrooms across the site, comprising of 24 bedsits and 5 flats. The proposal seeks to replace this existing housing complex, and would result in a 27 bedroomed scheme across the site, therefore a reduction in population. A request for contributions from NHS England has been received, based on the proposal for being resultant to a patient population of 43. Market Bosworth Surgery has seen an increase in patient population over the past 3 years, in addition to considerable expansion in and around the partnerships main surgery at Newbold Verdon. When considering NHS prevalence data and general practice experience information it is noted that patients within the retirement age group have a much higher prevalence for long term conditions, which cause significant impact on general practice capacity, and adds extra strain on local primary care facilities. It is considered that 43 patients would result in 1.12 hours per week for consulting rooms and 0.75 hours per week in treatment rooms. Contributions are therefore requested to increase healthcare facilities at Market Bosworth Surgery. A contribution request of £9,586.08 is requested.

The existing building however currently resides on site and provides a greater capacity than the replacement scheme and would therefore result in a net loss of population. It is therefore not considered that the contribution is necessary, fairly and reasonably related in scale and kind to the development proposed and this development would not result in any additional impact in terms of patient population as a result of this development

Libraries

- 8.52. The impact of the development upon libraries has been assessed by Leicestershire County Council. A contribution request has been made from Leicestershire County Council Library Services for £450 for use of provision and enhancement of library facilities at Hinckley Library on Lancaster Road, and to provide additional lending stock plus audio visual and reference materials to mitigate the impact of the increase in additional users of the library on the local library service arising from the development. The formula is based on £15.09 per 1 bed property, £30.18 per 2+ bedroomed properties. It is considered that the library request has not demonstrated whether the contribution is necessary and how increasing lending stock would mitigate the impact of the development on the library facility. Furthermore the existing building currently resides on site and provides a greater capacity than the replacement scheme and would therefore result in a net loss of population. It is therefore not considered that the contribution is necessary, fairly and reasonably related in scale and kind to the development proposed and this development would not result in any additional impact. Therefore, this request will not be required of the development.

Other matters

- 8.53. Street Scene Services (Waste) has raised no objections to the application, subject to a requested condition to secure the provision of waste recycling, storage and collection for the scheme. As the scheme is split into two elements it is proposed, that the flats would have a central communal bin store adjacent to the car parking area, and the proposed bungalows would be served by their individual bins adjacent to the highway. As such it is considered that this matter could be adequately addressed and agreed through the imposition of a condition.

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.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The application site is located within the settlement boundary of Market Bosworth, and seeks to provide a replacement affordable sheltered housing accommodation which is considered acceptable in principle.
- 10.2. By virtue of the layout, scale and appearance, the site would complement the visual appearance and character of the area and would not give rise to adverse impacts on neighbouring residential amenity. Subject to the imposition of a number of planning conditions, the scheme would not result in any significant adverse impacts on highway or pedestrian safety, or ecology. Conditions can also be imposed to ensure safe development of the site in respect of any land contamination and drainage to prevent any adverse impacts arising in respect of pollution or flooding.
- 10.3. The proposed scheme would be in accordance with Policies 7, 15 and 16 of the Core Strategy, Policies DM1, DM3, DM6, DM7, DM10, DM11, DM13, DM17, DM18 and DM19 of the adopted SADMP and Policy CE1 of the Market Bosworth Neighbourhood Plan, and is therefore recommended for approval subject to conditions and the completion of a section 106 legal agreement to secure the development remains affordable.

11. Recommendation

11.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - Affordable housing obligation
- Planning conditions outlined at the end of this report.
- The submission of bat activity surveys and any necessary mitigation proposals

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

11.3. That the Planning Manager 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 otherwise than in complete accordance with the submitted application details, as follows: Site location Plan Dwg No.2523/P100, Block plan Dwg No.2523/P104, Proposed Site Plan Dwg No. 2523/P102, Proposed site plan Dwg No. 2523/P103, Proposed floor plan Dwg No. 2523/P201, Elevations and Sections Dwg No. 2523/P202, Proposed roof plan, scoter store plan Dwg No.2523/P203 and proposed Bungalow Plan Dwg No.2523/P204 received by the Local Planning Authority on the 5 June 2019.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The occupation of the development hereby approved shall be limited to persons aged 60 years and above.

Reason: To ensure that the development caters for the older demographic in accordance with Policies 15 and 16 of the Core Strategy 2009.

5. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. 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 in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The communal garden shall be laid out within one month of the first occupation of any of the flats within the development and be permanently available for use by the occupants of all the flats to which this permission relates.

Reason: In the interests of residential amenity, as this communal garden is an essential element of the development in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

7. Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area in accordance with British Standard 5837:2012 Trees in relation to design, any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that order with or without modification) development within Schedule 2, Part 1, Classes A, B, C, D and E shall not be carried out without the grant of planning permission for such development by the Local Planning Authority.

Reason: To safeguard the residential amenity of neighbouring properties in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

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

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. No development shall commence on site until the recommendations contained within the Phase II investigation have been reported to the Local Planning Authority and agreed in writing.

Reason: To ensure that risks from land contamination to future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11. Prior to first occupation of the development hereby approved, details shall be submitted of the equipment and apparatus to be contained within the ground floor plant shall be submitted to and agreed in writing by the Local Planning Authority, this shall include all noise data associated with the proposed plant equipment. The agreed details shall be completed and installed prior to first occupation of the development hereby approved and maintained in accordance with those details thereafter.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM10 and DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

12. Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored.

The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

13. Construction work of the development, hereby permitted, shall not take place other than between the hours of 07:30 hrs and 18:00 hrs on weekdays and 08:00 hrs and 13:00 hrs on Saturdays. There shall be no construction work on site on Sundays and Bank Holidays unless other agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

14. No development shall commence until drainage details for the disposal of surface water and foul sewage have been submitted in writing to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

15. Prior to commencement of development details in relation to the management of surface water on site during construction of the development shall be submitted to, and approved in writing by, the Local Planning Authority. 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.

Reason: To prevent any increase in flood risk, maintain the existing surface water runoff quality and to prevent damage to the final water management systems through the entire development construction phase in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD.

16. Prior to commencement of development details in relation to the long term maintenance of the sustainable surface water drainage system on the development shall be submitted to and approved in writing by the Local Planning Authority. 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.

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 in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD.

17. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4; metres by 43; metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework.

18. Bungalows B2 and B3 as shown on Pelham Architects drawing number 2523/P102, shall not be occupied until such a time as the access arrangement shown on Pelham Architects drawing number 2523/P102 have been completed with vehicular visibility splays of 2.4 metres by 43 metres in a northerly direction and 2.4 metres by 17 metres in a southerly direction and pedestrian visibility splays of 1.0 metre by 1.0 metre on Southfield Way. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of pedestrian safety, and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework.

19. Bungalows B2 and B3 as shown on Pelham Architects drawing number 2523/P102 shall not be occupied until such a time as the parking, and turning facilities have been completed in accordance with B2 and B3 as shown on

Pelham Architects drawing number 2523/P102, and thereafter maintain in perpetuity.

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 (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

20. No development shall take place until a scheme which provides adequate provision for waste and recycling storage and collection across the site has been submitted to and approved in writing by the Local Planning Authority. The details should address the accessibility to storage facilities and adequate collections point space at the adopted highway boundary.

Reason: To ensure that the development is served with a satisfactory waste collection scheme across the site to serve the amenity of the future occupants to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

21. Prior to the occupation of each dwelling/unit on site full fibre broadband connection should be available and ready for use.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the national Planning Policy Framework (2019).

Notes to Applicant

1. 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. 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 Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
2. To erect temporary directional signage you must seek prior approval from the Local Highways Authority in the first instance (telephone 0116 305 0001).

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Planning Committee 17 September 2019
Report of the Planning Manager

Planning Ref: 19/00619/OUT
Applicant: Mrs J Wilkinson
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 8 Crossways, Burbage

Proposal: Erection of one dwelling and garage (outline - all matters reserved)



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1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.
- 1.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

2. Planning Application Description

- 2.1. This application seeks outline planning permission, with all matters reserved, for the erection of one dwelling and associated garage on land to the rear of 8 Crossways, Burbage.
- 2.2. The indicative plan submitted shows the existing garden serving no.8 being subdivided, with a new dwelling and garage to the rear. An existing garage to the side of the property would be demolished to make way for the access to the new

dwelling, which would run along the side boundary with no.10. Tandem car parking spaces for no.8 are shown provided to the side/rear of the existing property.

- 2.3. The originally submitted application proposed two dwellings on the site. However, following officers concerns about the likely cramped nature of this form of development, the restricted car parking and turning facilities and the likely detrimental impacts on residential amenity of traffic and vehicle manoeuvring close to no.10, an amended proposal showing a single dwelling only, was submitted.

3. Description of the Site and Surrounding Area

- 3.1. The application site currently comprises the rear garden of no. 8 Crossways. No.8 is a detached two-storey house with a detached garage and hardstanding to the side/front. The existing garden is extremely well established with trees, mature shrubbery and hedging. It also contains a kitchen garden and nursery-type greenhouse. The surrounding area comprises a mix of styles and types of properties. The site is located within the settlement boundary of Burbage.

4. Relevant Planning History

None

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 objections from 5 separate addresses and one from the Parish Council, were received on the original scheme for two dwellings. Three representations were received in respect of the amended scheme for a single dwelling (including one from the Parish Council), all of which reiterated their objections. The following concerns were raised:-

- 1) The development would result in the loss of 60% of the existing vegetation on the site
- 2) Crossways is unadopted and in poor condition. The additional traffic and associated services e.g. delivery vehicles will have a further detrimental effect on its condition, including underground pipes, and the general safety of users
- 3) There is already poor visibility exiting Crossways from Coventry Road and from Sketchley Road
- 4) Access during construction will be a problem
- 5) Bin lorries already cannot get down Crossways
- 6) Noise disturbance from the development will be contrary to the Human Rights Act
- 7) It would be out of keeping with the existing private, peaceful rear gardens which give the area its character and appeal
- 8) It will be overbearing on neighbouring residential properties
- 9) Loss of property value
- 10) Impact of construction traffic
- 11) Crossways is too narrow for 2 cars to pass, resulting in dangerous reversing and other manoeuvres
- 12) Loss of wildlife
- 13) Removal of vegetation could cause ground heave and structural damage to neighbouring property
- 14) Poor visibility into and out of the site
- 15) Access very close to wall of no.10 and vehicle movements would cause noise and disturbance
- 16) Two storey development would cause overlooking and overshadowing of gardens

- 17) Loss of garden land will exacerbate poor drainage and increase risk of flooding

6. Consultation

6.1. Burbage Parish Council object for the following reasons:-

- 1) Access road is unsuitable for further development
- 2) It is undesirable backland development
- 3) It would be incongruous with the established pattern of development

6.2. Lead Local Flood Authority refers the Council to standing advice.

6.3. No objection subject to conditions from:-

LCC Highways
HBBC Waste

6.4. No objection from HBBC Environmental Health

7. Policy

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Burbage Neighbourhood Plan (BNP) 2015 – 2026 (Pre-submission Draft)

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

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

Assessment against strategic planning policies

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should

be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).

- 8.4. The development plan in this instance consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).
- 8.5. The emerging Burbage Neighbourhood Plan (BNP) is still in development and not yet made. Therefore, only very limited weight can be afforded to this emerging document at this time.
- 8.6. Policy 4 of the adopted Core Strategy supports development within the settlement boundary of Burbage, which has access to a range of services and facilities and sustainable transport modes. By virtue of its location, together with the small scale of development, the proposal would not result in any conflict with Policy 4 of the adopted Core Strategy or with the emerging BNP in strategic terms. It is therefore considered to be acceptable in principle, subject to all other planning considerations being satisfactorily addressed.

Design and impact upon the character of the area

- 8.7. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.8. Policies 2 and 4 of the emerging BNP support residential proposals that do not cause adverse impacts on the character of the area, are within the continuity of existing frontage buildings, are comparable in layout, size, scale and design to neighbouring properties and retain important natural boundaries.
- 8.9. Notwithstanding the submitted indicative site layout, this is an outline planning application seeking approval for the principle of development only, with all matters reserved. Therefore, matters of access, layout, scale, appearance and landscaping are reserved for subsequent separate approval.
- 8.10. The existing area comprises a mix of design, styles and types of properties with the existing property being a two storey dwelling. However, the area is generally characterised by detached or semi-detached dwellings with very long rear gardens.
- 8.11. Although there is no development in depth on Crossways itself, there are examples within the vicinity of the application site, including off Turville Close, immediately to the west of the site and off Coventry Road, to the south of the site.
- 8.12. Of particular note is an existing 'backland' development at 54a Coventry Road (ref.no. 06/01069/FUL), which is for a hipped-roof single-storey dwelling. An appeal inspector on an earlier application at this site (ref.no. 04/01350/FUL) dismissed an appeal on amenity grounds due to traffic movements, but otherwise concluded that the proposal would not be out of character. Similarly, a proposed development nearby, at 42 Coventry Road (ref.no.17/00552/OUT) was also refused on appeal, but, in that case, on highway grounds. Again, the Inspector considered that 'backland' development was an established character of the area.
- 8.13. Although these cases do not relate directly to developments on Crossways, they are in close physical proximity to the application site and therefore form part of the wider character of the area. Whilst the application proposal would be the first development in depth on Crossways itself, officers are of the view that it would not be out of character with the wider area and, as such, it would be difficult to justify a

refusal on these grounds alone, whilst also having regard to the two appeal inspectors in their consideration of similar proposals nearby, who also did not consider this to be the case.

- 8.14. In terms of the site itself, the proposed subdivision would provide satisfactory space for a new dwelling of appropriate size, with more than adequate amenity areas for both the existing and proposed dwelling.
- 8.15. Notwithstanding that scale is a reserved matter at this stage, it is considered that two-storey development is unacceptable in this backland location, given that it would comprise a dwelling without a street frontage. A low key, essentially single storey, building would be more appropriate and also help to minimise the impact of the development on the verdant and open nature of the adjoining long rear gardens and retain its ambience. The applicant's agent has suggested a maximum ridge height of 7 metres and officers consider this would be acceptable. A condition of approval could secure this height restriction.
- 8.16. Subject to satisfactory scale, design, appearance and landscaping which would be assessed at the reserved matters stage, the development of the site for a new dwelling would complement the character of the surrounding area and the proposal would therefore be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.17. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.18. The indicative layout shows a dwelling to be sited towards the rear of the existing garden, with associated garage and parking to the front and a private garden to the rear. The whole application site occupies over half of the area of the existing garden. To the south, beyond the end sections of two neighbouring rear gardens, is no.54a Coventry Road, the backland development described above. The distance between the two would be approximately 12 metres. To the west, the rear boundary adjoins the rear gardens of dwellings fronting Cotes Road and that of another backland dwelling, off Turville Close. The separation distances here would be approximately 50 metres and 20 metres respectively. To the north are the end sections of other neighbouring rear gardens of properties on Crossways. The distance between the new dwelling and the rear windows of no. 8, and the neighbours at nos.6 and 10 would be approximately 30 metres. Due to these separation distances, it is considered that the proposed dwelling would not result in any significant overbearing impacts or loss of light or loss of privacy to the windows or private residential amenity areas of the surrounding properties.
- 8.19. However, any side windows above ground level would need to be restricted on the elevations facing across the neighbouring gardens, to ensure no unacceptable loss of privacy from overlooking. This would be assessed at the reserved matters stage. New boundary fencing of appropriate height would protect the privacy of the rear garden of no.8.
- 8.20. The internal access road to the dwelling would run along the boundary with no 10, which is currently substantially screened. The indicative drawing shows the existing planting to be replaced with a new planted screen along this boundary. On this basis and given the minor development of only one dwelling, it is considered that the new access road would not result in any significant adverse impacts in respect of noise or disturbance to this property, or to no.8 itself, from vehicles accessing the development. Details of the exact positioning of the access and any landscaping screening to minimise any impacts on no.10 would be subject to approval at reserved matters stage.

- 8.21. Sufficient private and useable amenity space would be provided serving the existing and future occupiers of the properties.
- 8.22. By virtue of the size of the plot and its relationship to neighbouring dwellings, subject to the consideration of additional details at the reserved matters stage (including the scale of the dwelling and the position of any windows), the erection of a single dwelling would achieve satisfactory separation distances to neighbouring properties to avoid any significant adverse overbearing impacts. Together with satisfactory boundary treatments, the privacy and amenity of neighbouring properties and future occupiers of the site would be protected from any significant loss of privacy from overlooking. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.23. Policy DM17 of the SADMP supports development proposals where they demonstrate that there would be no adverse impacts on highway safety and that development is located where the use of sustainable transport modes can be maximised. Policy DM18 of the SADMP seeks an appropriate level of parking provision within sites to serve the development.
- 8.24. Leicestershire County Council Highway Authority has commented on the proposal and has no objections subject to conditions.
- 8.25. Given the nature of Crossways, which is a predominantly hard bound single track road, the Highway Authority considers vehicles will be travelling at low speeds along the route. Furthermore, there are nearby routes which are surfaced to a higher adoptable standard in the form of Salem Road and Pyeharps Road should drivers need to travel between Coventry Road and Sketchley Road, which are likely to be more appealing routes to drivers as a result. The Highway Authority therefore considers the road is unlikely to be used as a through route by a high volume of traffic and predominantly used by those accessing properties on Crossways.
- 8.26. Visibility is restricted in the vicinity of the access on both sides due to the vegetation within land under the Applicants control. The Highway Authority advises that this will need to be removed or lowered to a maximum of 0.6 metres in height both sides of the site access in order to improve the visibility at the access. Without removal of the vegetation, the Highway Authority considers the principle of a safe and suitable access cannot be achieved. The Highway Authority therefore advise a condition at this stage which requires the Applicant to submit a plan detailing the vegetation within the visibility splays is removed or lowered to below 0.6 metres
- 8.27. The access width should be a minimum 2.75 metres (including an additional 0.5 metre strip with an additional 0.5 metre strip on either side bound by a wall/ hedge/ fence) to accord with Part 3, Figure DG20 of the Leicestershire Highway Design Guide ([LHDG]). The submitted Design & Access Statement advises that the access will be 3.6 metres wide. Although access is to be approved under reserved matters, it is considered that, on the basis of the indicative layout, a satisfactory width of access is achievable.
- 8.28. Given the above and subject to appropriate conditions, it is considered that the proposal would be capable of providing satisfactory access and parking. The proposal would therefore be in accordance with Policy DM17 and DM18 of the SADMP.

Other issues

- 8.29. The Design & Access statement advises that the access would be a minimum of 3.6 metres wide, which complies with Building Regulation requirements for access by the Fire Service.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3. There are no known equality implications arising directly from this development.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The application site is within the settlement boundary of Burbage where sustainable residential development is acceptable in principle. The site is within a reasonable distance of a full range of services and facilities in the centre of Hinckley and Burbage and accessible by sustainable transport means. Subject to the approval of layout, scale, design, appearance and landscaping at the reserved matters stage, the site would be capable of being developed for one new dwelling without any significant adverse impacts on the character of the area, highway safety or the privacy or amenity of any neighbouring properties.
- 10.2. The proposed scheme would be in accordance with Policy 4 of the adopted Core Strategy and Policies DM1, DM6, DM10, DM17 and DM18 of the adopted SADMP and the overarching principles of the NPPF (2019) and is therefore recommended for outline approval, subject to conditions.

11. Recommendation

- 11.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.
- 11.2. That the Planning Manager be given powers to determine the final detail of planning conditions.
- 11.3. **Conditions and Reasons**
1. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
Reason: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

2. Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:
 - a) The access arrangements within the site for vehicles, cycles and pedestrians;
 - b) The appearance of the development including the aspects of a building or place that determine the visual impression it makes including materials;
 - c) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures and boundary treatments;
 - d) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development;
 - e) The scale of the building proposed in relation to its surroundings.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details.

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

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

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

4. The development hereby permitted shall not be occupied until a scheme that makes provision for waste and recycling storage and collection for the site have been submitted to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme, in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

5. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) no gates, barriers, bollards, chains, or other such obstructions shall be erected to the vehicular access within a distance of 5 metres of the highway boundary.

Reason: To allow vehicles to stand clear of the highway in the interests of highway safety to accord with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

6. Prior to occupation of any dwelling hereby permitted, details of the removal or lowering of vegetation or any other obstruction such as walls/ fences which

fall within the visibility splay either side of the site access to 0.6 metres or below has been submitted to and agreed in writing by the Local Planning Authority. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway.

7. No development above foundation level of the dwelling hereby permitted shall take place until representative samples of the types and colours of materials to be used on the external elevations of the dwelling have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A - C inclusive and E inclusive shall not be carried out unless planning permission for such development has first been granted by the local planning authority.

Reason: In the interests of visual amenity and to protect the privacy and amenity of the occupiers of neighbouring properties to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. The dwelling hereby permitted shall not exceed one storey in height.

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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. This permission is based on the submitted indicative layout received 29.07.2019. Reserved matters details will be expected to be in general conformity with this layout.
3. 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 Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

4. 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 Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
5. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
6. Where there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, the applicant will 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 via the following website: <http://www.leicestershire.gov.uk/Flood-risk-management>. No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
7. 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).



Hinckley & Bosworth
Borough Council

A Borough to be proud of

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

PLANNING COMMITTEE

17 September 2019

WARDS AFFECTED:

All Wards

Planning Enforcement Update

Report of Planning Manager

1. PURPOSE OF REPORT

- 1.1 To provide an update to Members on the number of active and closed enforcement cases within the borough.
- 1.2 To provide an update on the current workload being handled by the team.
- 1.3 To provide an overview of the performance of the compliance, monitoring and enforcement function within the planning and development service.

2. RECOMMENDATION

- 2.1 That the report be noted.

3. PLANNING ENFORCEMENT CASE UPDATE

Newton Linford Lane, Groby (Known as Klondyke)

An external specialist company has been contracted to provide support in relation to this ongoing case. The piece of work will be to review the current uses of the site from the Council's records and observations, to identify those elements where enforcement action might be taken, together with the production of suitable legal notices as required. This work is currently underway and once finalised the company will identify the options available to the Council. Once received the Council will determine which element it wishes to see action taken over, including but not limited to the removal of unauthorised development and costs to take such action and provide any necessary ongoing instructions.

Land at the rear of 84 Leicester Road, Hinckley

Following service of the enforcement notice and the dismissal of their latest appeal the owners of the site have removed the storage containers from the land however the materials still remain in situ and therefore they have been given a final deadline for these to be removed was 31st August 2019

Kirby Vale, Nock Verges

A multi-agency site visit was undertaken during which it was noted that breaches of planning control were occurring on the site. Following this visit a letter was sent to the owner highlighting the breaches and giving a timeframe in which to resolve the matter. Further to this the owners agent has advised that they will be submitting planning applications in an attempt to regularise the breaches.

Land North of Leicester Road, Groby.

Work has commenced on site in relation to the approved residential development. An open investigation will be maintained to address any reported alleged breaches of planning control

Old Woodlands Farm, Ratby

The case still forms part of an ongoing investigation into the use of the woodlands by 'Go Wild Camping' which includes people erecting tents overnight and the siting of a large storage container for forestry equipment. However following refusal of 18/00843/FUL the owners have submitted a revised planning application for which we are awaiting further information to enable its validation. Legal advice has also been on taking enforcement action, who have advised that such action would be unreasonable at this time. The Council's anti-social behaviour team have been informed of concerns raised by local residents in terms of the behaviour of some individuals using the campsite.

Ivy House Farm

This is a long standing enforcement case with regard to the storage of an excessive amount of items both on fields and within agricultural buildings. The owner has been working with the case officer to remove items, however the owner is terminally ill and as such the Council are withholding taking any formal action at this time.

32 Main Street, Thornton

A Court Hearing was held at the end of August for prosecution of the owners for non compliance with the Enforcement Notice.

Crown Crest, Desford

This investigation is still ongoing and is running in parallel to the determination of planning application 19/00253/CONDIT to extend the permitted days and hours for deliveries to and from the site.

Manor Hill Farm

Planning applications have now been submitted by the owners in an attempt to regularise all matters on the site, all action will now be held in abeyance pending the determination of the planning applications.

Untidy Sites

From 1 May 2019 to 31 July 2019 the Council received 8 complaints in respect of untidy land within the Borough. The planning enforcement team have successfully introduced the use of Community Protection Notices under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 which came into effect in England and Wales on 20 October 2014, to resolve matters relating to untidy sites. Community Protection Notices are intended to stop a natural person or a body (eg a legal person such as a business) continuing with conduct which unacceptably affects victims and the community. They can be used in circumstances where there are reasonable grounds to believe the subject's conduct:-

- is having a detrimental effect on the quality of life of those in the locality, and
- is unreasonable, and
- the behaviour is of a persistent or continuing nature.

Before a Community Protection Notice can be issued, the subject must be given a written warning stating that a Community Protection Notice will be issued unless their conduct ceases to have the detrimental effect

4.0 RECENT SUCCESS STORIES

Oak Tree House, Cadeby Hall

Following the Public Inquiry into the unauthorised erection of a dwelling, The Planning Inspectorate dismissed the appeal and upheld the notice. The owners have subsequently been advised that they have until early next year in which to fully comply with the requirements of the notice which includes demolition and removal of the dwelling and ancillary structures.

40 Highfields, Thornton

Following The Planning Inspectorate's decision to dismiss the owner's appeal against the refusal of planning application 18/01098/HOU for retrospective approval for a balcony to the rear of the property, a letter has been sent to the owners to inform them that the enforcement notice, which requires removal of the balcony and all associated materials by the end of October 2019, must be complied with.

Choyces Rough, Cow Lane, Ratby

A report was received that an extension was being built to a greater depth than approved. Following a site visit the owners submitted a planning application to regularise the works in July 2019 which is awaiting determination.

Atherstone Stable, Atherstone Road

Reports were received that a stable were being used for residential accommodation, the planning enforcement team's involvement has resulted in the tenants leaving the

site and all residential use ceasing. The owners have now applied for a tea room and shop from the site.

Lychgate Lane, Burbage

Following reports of land clearance and footings for a building taking place within woodlands, an immediate site visit confirmed works were taking place on the land in breach of planning control. The owner was located and confirmed that they were clearing the site and the footings were in relation to a log cabin that was being erected on the site to facilitate its use as an educational facility for children and to house machinery to maintain the land. Given the concerns over the highway access into the site and its proposed intensification, the owners were requested to voluntarily cease all development or face a Temporary Stop Notice. The owners are currently working with the Council and have ceased all development and are in the process of submitting either a pre-application request or a full planning application for all proposed works.

104-106 High Street, Barwell

Reports were received that a fish and chip shop were displaying large advertisement banners on garden land owned by a local care home, highlighting its use as an outdoor seating area for the takeaway. The breach also included several picnic benches and fly posting literature located on the site. The owner of the take-away was requested to cease the use and remove the advertising banners, benches and fly posting literature, which they have fully complied with.

Cadeby Court, Sutton Lane

Following reports that accommodation was not being used as ancillary accommodation, a site visit was undertaken during which it was confirmed that the properties had their own front doors and defined curtilages and were being used as 2 independent dwellings. Following this visit the owners have subsequently submitted a planning application to regularise the matter.

Townsend Farm, Sutton Cheney

Following reports that a detached oil tank had been installed within the grounds of a listed building a site visit was undertaken and the owners notified that listed building consent was required for the works. The owners subsequently submitted an application which has now been approved.

5.0 WORKLOAD, STAFFING UPDATE & PERFORMANCE

- 5.1 The following tables detail the current workload that the team is managing in respect of current enforcement investigations. Table 1 demonstrates the number of cases that have been opened within a specific period and how many cases have been closed within the same period. The team ensures that enforcement cases are resolved as expediently as possible. Table 2 sets out in more detail how the cases were closed. As of the 31 July 2019 there are 120 enforcement cases pending consideration.

Table 1: Number of Enforcement cases opened and closed

Period of time	Number of cases opened	Number of cases closed
1 May 2019 – 31 July 2019	71	99
1 st February - 30 th April 2019	111	105

Table 2: How the enforcement cases were closed

Period of time	Total Cases closed	Case closed by resolution of breach	Case closed due to there being no breach	Case closed as not expedient to take action
1 May 2019 – 31 July 2019	99	39	48	12
1 st February -30 th April 2019	105	37	51	17

- 4.3 The approach to tackling enforcement cases continues to be a collaborative one; involving joined up working with other service areas within the council. We also continue to attend the quarterly Planning Enforcement Forum Group for Leicestershire Local Authorities to share experiences and best practice.
- 4.4 Sally Hames has taken on the role of Planning Enforcement Team Leader until 31 January 2020, however the role of Senior Planning Enforcement Officer still remains vacant and the current planning enforcement officer has now resigned to take up the position of Senior Development Control Officer at a neighboring authority. With only 1 permanent member of staff within the team, the Council is currently looking to recruit a specialist planning enforcement consultant on an initial 3 month contract whilst adverts are placed to try to recruit permanent members of staff to both the Senior Planning Enforcement and Enforcement Officer roles. This, together with the usual summer holiday period, has resulted in the Team Leader having to reallocate her time from proactive work in terms of the Council's website and the production of an Enforcement Plan, to take on additional cases whilst this staffing issue is resolved. The Council is also aware that there is a shortage of experienced enforcement officers both within the county and countrywide with 3 other Leicestershire authorities either currently, or in the process of, trying to recruit to permanent planning enforcement positions.

As always, should members have a Planning enforcement issue raised with them by a member of the public please ensure this is not reported directly to officers of the team but via the enforcement inbox which has a new email address: planningenforcement@hinckley-bosworth.gov.uk

5. FINANCIAL IMPLICATIONS [CS]

5.1 None

6. LEGAL IMPLICATIONS (MR)

6.1 None

7. CORPORATE PLAN IMPLICATIONS

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

8. CONSULTATION

None

9. RISK IMPLICATIONS

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

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

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

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Recruitment & retention of staff	<p>Q1 The following posts are vacant:</p> <ul style="list-style-type: none">- Enforcement Officer: The officer is in their notice period and the post will be advertised.- Senior Enforcement Officer: We have been unsuccessful in recruiting and therefore a consultant has been employed in the interim.- Enforcement Team Leader: The post was advertised nationally and	Nicola Smith

	<p>no applicants applied, this post is currently being covered by a consultant.</p> <ul style="list-style-type: none"> - Head of Planning: Following two rounds of unsuccessful recruitment to the Head of Planning the role has been covered on an interim basis by the Planning Manager which runs until July 2019. <p>The job market remains highly competitive with a distinct lack of skilled and available planners which makes recruitment extremely difficult. Measures have been put in place to try to retain staff through the career grade and training opportunities. A review of current recruitment issues to include benchmarking is currently underway.</p>	
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10. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

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

11. **CORPORATE IMPLICATIONS**

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

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

Contact Officer: Sally Hames Planning Enforcement Team Leader ext. 5919

Executive Member: Cllr David Bill

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PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 06.09.19

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	Appeal Valid	DATES
	GS	19/00328/HOU (PINS Ref 3236341)	WR	Mr Martin Allen 35 Janes Way Markfield LE67 9SW	35 Janes Way Markfield (Boundary fencing to front and side of property (retrospective))	Awaiting Start Date	
	RH	19/00538/CQGDO (PINS Ref 3236060)	IH	Mr Rob Jones Winfrey Farm Dadlington Lane Stapleton	Winfrey Farm Dadlington Lane Stapleton (Prior notification for change of use of agricultural buildings to 5 dwellinghouses (Class C3) and for associated operational development)	Awaiting Start Date	
	SW	19/00093/FUL (PINS Ref 3235944)	WR	Mr David Jackson SW Jackson Manor Farm 2 Carlton Road Barton in the Beans	Manor Farm 2 Carlton Road Barton In The Beans (Demolition of existing agricultural buildings and erection of 8 dwellings with associated landscaping)	Appeal Valid Awaiting Start Date	28.08.19
	CG	16/00758/FUL (PINS Ref 3234826)	WR	Mr Atul Lakhani Farland Trading Ltd 36 Thurnview Road Leicester	Land Adjacent 121 Station Road Bagworth (Erection of 10 no. dwellings and 2 no. flats (100% Affordable Scheme))	Appeal Valid Awaiting Start Date	22.08.19
	TW	18/00300/UNHOUS	WR	Mr Stuart Mallinson 34 Wendover Drive Hinckley	34 Wendover Drive Hinckley (Erection of a fence adjacent to a highway)	Awaiting Start Date	
19/00027/PP	SW	18/01252/OUT (PINS Ref 3235401)	PI	Glenalmond Developments Limited	Land East Of Peckleton Lane Desford (Residential development up to 80 dwellings with associated works (Outline - access only))	Start Date Statement of Case Proof of Evidence Duration 3 days (TBC) Decision Expected	28.08.19 03.10.19 05.11.19 27-29.11.19 30.01.20

19/00025/PP	CG/NW	19/00031/FUL (PINS Ref 3232915)	WR	Nine Points Property Ltd c/o Agent	146 Hinckley Road Barwell (Change of use from children's day nursery to a residential care home for children with education facility)	Start Date Final Comments	29.07.19 16.09.19
19/00026/FTPP	GS	19/00113/HOU (PINS Ref 3232751)	WR	Wesley Abdulai 69 Seaforth Drive Hinckley	69 Seaforth Drive Hinckley (First floor front extension (retrospective))	Start Date Awaiting Decision	20.08.19
19/00024/PP	SW	19/00302/OUT (PINS Ref 3231357)	WR	Mr Mark Whitmore Bramble Paddock Breach Lane Earl Shilton LE9 7FB	Land Opposite 22-24 Merrylees Road Newbold Heath Newbold Verdon (Detached 4 bedroom dwelling (Outline - with all matters reserved))	Start Date Final Comments	20.06.19 05.09.19
19/00016/PP	AC	19/00303/FUL (PINS REF 3229645)	WR	Ms Lisette Sampey 17 Main Street Higham on the Hill	17 Main Street Higham On The Hill Nuneaton (Demolition of existing workshop, garage and wall, subdivision of plot and erection of one detached dwelling, single storey front extension to existing dwelling and new access to serve existing dwelling)	Start Date Awaiting Decision	31.05.19
19/00015/PP	JB	18/00732/FUL (PINS ref 3218401)	IH	Statue Homes Limited The Old House Farm Sutton Lane Cadeby Nuneaton	Kyngs Golf And Country Club Station Road Market Bosworth (Erection of multi-functional recreationa building formation of a new car parking areas, new access roads and the proposed erection of 15 golf holiday homes and all associated ancillary works and landscaping (Resubmission))	Start Date Awaiting Decision	28.05.19
19/00021/PP	JB	19/00230/FUL (PINS 3229633)	IH	Statue Homes Limited The Old House Farm Sutton Lane Cadeby Nuneaton	Kyngs Golf And Country Club Station Road Market Bosworth (Change of use of vacant outbuilding to No. 1 holiday lodge and alterations to existing vehicular access onto Station Road to include the extension of the access drive)	Start Date Awaiting Decision Co-joined with 3218401	13.06.19

19/00022/NONDET	RW	19/00213/CONDIT (PINS REF 3229530)	WR	Centre Estates Limited 99 Hinckley Road Leicester	Land Off Paddock Way Hinckley (Application Reference Number: 17/00115/FUL (Appeal Reference: APP/K2420/W/17/3189810) Date of Decision: 13/09/2018 Condition Number(s): 2)	Start Date Awaiting Decision	21.06.19
19/00020/PP	JB	18/01104/FUL (PINS Ref 3228815)	WR	Mr Lee Brockhouse A5 Aquatics Meadowcroft Farm Watling Street Nuneaton	Land North Of Watling Street Nuneaton (Erection of dwelling, detached garage, boat house, football pitch, creation of access and associated landscaping (re- submission of 18/00207/FUL))	Start Date Awaiting Decision	13.06.19
	TW	18/00247/UNHOUS (PINS Ref 3225956)	WR	Miss Helen Crouch 49 Main Street, Bagworth	49 Main Street Bagworth (Creation of a balcony)	Appeal Valid Awaiting Start Date	18.06.19
	TW	18/00268/UNUSES (PINS Ref 3222721)	WR	Mr Andrew Charles Swanbourne Dawsons Lane Barwell	Land East Of The Enterprise Centre Dawsons Lane Barwell (Siting of 2 storage containers ancillary to the existing equestrian use)	Appeal Valid Awaiting Start Date	29.03.19
	AC	18/01051/FUL (PINS Ref 3222720)	WR	Mr Andrew Charles Swanbourne Dawsons Lane Barwell	Land East Of The Enterprise Centre Dawsons Lane Barwell (Siting of 2 storage containers ancillary to the existing equestrian use)	Appeal Valid Awaiting Start Date	29.03.19
19/00017/PP	CG	18/00302/FUL (PINS Ref 3222266)	IH	Persimmon Homes North Midlands Ltd, Davidson House Unit 17c Meridian East, Meridian Business Park Leicester	Land South Of Amber Way Burbage (Erection of 40 dwellings and associated infrastructure)	Start Date Awaiting Decision	31.05.19
	CJ	18/01151/HOU (PINS Ref 3221766)	WR	Mr Richard Seabrook 25 Warwick Gardens Hinckley	25 Warwick Gardens Hinckley (Erection of fence adjacent to highway above 1 metre)	Appeal Valid Awaiting Start Date	07.02.19

	CJ	18/00344/UNHOUS (PINS Ref 3221767)	WR	Mr Richard Seabrook 25 Warwick Gardens Hinckley	25 Warwick Gardens Hinckley (Erection of fence adjacent to highway above 1 metre)	Appeal Valid Awaiting Start Date	09.04.19
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Decisions Received

19/00023/FTPP	TW	19/00174/HOU (PINS Ref 3229307)	WR	Mr & Mrs Marcus & Gill O'Sullivan 122 Ashby Road Hinckley	122 Ashby Road Hinckley (Erection of a Car Port to front of property (Retrospective))	DISMISSED	22.08.19
19/00019/FTPP	RW	18/01259/HOU (PINS Ref 3228184)	WR	Mr & Mrs KB Jones 7 Cadeby Court Sutton Lane Cadeby	7 Cadeby Court Sutton Lane Cadeby (Single storey rear extension and timber framed open porch to front elevation of dwelling (re-submitted scheme))	DISMISSED	15.08.19

Appeal Decisions - 1 April - 6 September 2019

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
17	4	14	0	0	3	0	11	0	0	2	1	0	0

Enforcement Appeal Decisions

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn
2	0	2	0	0