

Planning Committee 19 February 2019  
Report of the Interim Head of Planning

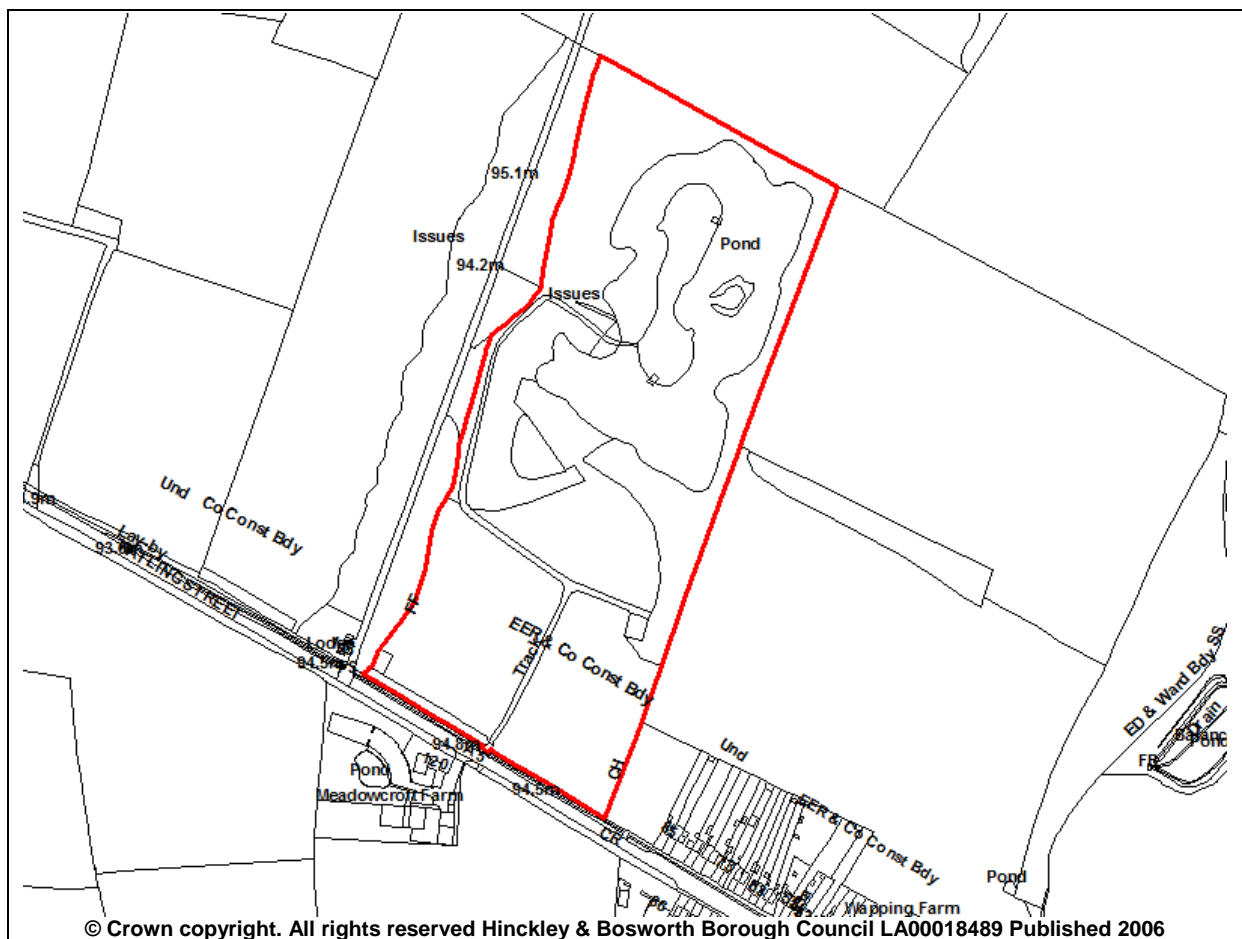
Planning Ref: 18/01104/FUL  
Applicant: Mr Lee Brockhouse  
Ward: Ambien



Hinckley & Bosworth  
Borough Council

Site: Land North Of Watling Street Nuneaton

Proposal: Erection of dwelling, detached garage, boat house, football pitch, creation of access and associated landscaping (re-submission of 18/00207/FUL)



1. Recommendations

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

2. Planning Application Description

- 2.1. Full planning permission is sought for the erection of a detached 6 bedroomed dwelling with associated access to land North of Watling Street, Hinckley.
- 2.2. The scheme proposes a two storey dwelling, with a detached garage. The proposed dwelling would be situated upon an existing island within the lake, which occupies the north half of the application site. A detached garage would be situated to the west of the bridge serving the island, and positioned upon the mainland.

- 2.3. In addition to the proposed dwelling and detached garage, the scheme also seeks additional landscaping and recreational facilities, these include the formation of a football pitch, the erection of a boat house and bonfire areas.
- 2.4. The application site is a cross boundary application, in that the access onto the A5 is situated within Nuneaton and Bedworth Borough Council. The access has been previously approved by Nuneaton and Bedworth Borough Council under reference number 035546 on the 16 May 2018.

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

- 3.1. The application site is located on the north side of Watling Street, situated between Hinckley and Nuneaton, with an existing direct access off the A5 via a palisade gate; palisade fencing extends and encloses the whole of the application site on all four sides. The application site forms a large plot of land which comprises an agricultural field with a man-made lake situated to the north of the site. The land and lake is currently used by the applicant for private leisure activities. To the east of the site there is a large brick storage building. The site is screened by existing mature trees and hedgerows.
- 3.2. There is a dwelling approximately 50 metres to the east of the site boundary which forms the last house in the ribbon form of development which extends towards Hinckley's urban boundary. To the south of the site is 'A5 Aquatics' and an associated dwelling.
- 3.3. The site is located outside any defined settlement boundary and therefore situated within Countryside.
- 3.4. Technical documents submitted:-  
 Landscape Appraisal  
 Landscape Management and Maintenance Plan  
 Design and Access Statement  
 Arboricultural Survey  
 Planning Statement  
 Sustainability and Innovation Statement  
 Flood Risk Assessment  
 Ecology Report

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

11/00016/FUL	Erection of general purpose agricultural building	Approved	14.03.2011
14/00778/FUL	Erection of a dwelling and attached garage incorporating a photovoltaic roof panel array	Refused Appeal Dismissed	15.01.2015 02.09.2015
14/01025/CONDIT	Variation of condition on planning permission 11/00016/FUL	Approved	31.12.2014
18/00207/FUL	Erection of dwelling, detached garage, boat house, football pitch, creation of access and	Withdrawn	19.06.2018

associated  
landscaping.

## **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 and 8 letters of support have been received raising the following points:-

- 1) The planned eco credentials look state of the art and the landscape improvement of the whole site would not look out of place or stately home
- 2) Project has to be supported
- 3) Looks fantastic and will be a benefit to the local area
- 4) An architectural masterpiece
- 5) A true one off, something to show off and be proud of
- 6) Will improve the local area
- 7) House is one of a kind that maybe could see it being used in conventional new builds in the future
- 8) This would be at home on the TV show such as Grand Designs
- 9) Nestles perfectly into the harmony of the existing landscape
- 10) The application is inventive and innovative

## **6. Consultation**

6.1. No objections, some subject to the imposition of conditions, from:-

Highways England  
Environmental Health (Drainage)  
Environmental Health (Pollution)  
Leicestershire County Council (Highways)  
Leicestershire County Council (Ecology)  
Natural England  
Waste minimisation officer  
Cadent  
Severn Trent  
Health and Safety Executive

6.2. Objections have been received from:-

Lead Local Flood Authority

6.3. Higham on the Hill Parish Council have objected on the following grounds:-

- 1) The development in open countryside could set a precedent
- 2) The planting of a conifer hedge is not appropriate
- 3) The design is out of keeping with the area

## **7. Policy**

7.1. Core Strategy (2009)

- Policy 12: Rural Villages

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation

- Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2018)
  - Planning Practice Guidance (PPG)

## **8. Appraisal**

### **8.1. Key Issues**

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

#### Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraphs 12 and 13 of the NPPF state that the development plan is the starting point for decision making 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 spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.5. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough Council is able to demonstrate five years of deliverable housing using the standard method. Due to the change in the housing figures required for the borough, paragraph 11 of the NPPF is triggered. This is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.6. Policy DM1 of the adopted SADMP provides a presumption in favour of sustainable development that is in accordance with the development plan. The site is located outside of any settlement boundary and is therefore in the countryside as defined in the adopted SADMP. Policy DM4 of the adopted SADMP states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. The policy goes on to list a number of categories of development that would be considered sustainable in the countryside subject to meeting a number of other criteria. Forms of development that the policy may consider to be sustainable in the countryside do not include new residential development unless it is for essential rural worker accommodation. The proposal for new residential development would therefore be in clear conflict with Policy DM4 of the adopted SADMP.

- 8.7. Paragraph 79 of the NPPF specifically addresses development of isolated homes in the countryside. Paragraph 79 identifies that the development that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
  - b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
  - c) The development would re-use redundant or disused buildings and enhance its immediate setting;
  - d) The development would involve the subdivision of an existing residential dwelling; or
  - e) The design is of exceptional quality, in that it:
    - Is truly outstanding or innovative, reflecting the highest standards in architecture, and would help raise standards of design more generally in rural areas; and
    - Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 8.8. It is clear that the site is situated outside any defined settlement boundary and within the countryside. The scheme is not proposed to support the essential need of a rural worker, does not represent the optimal viable use of a heritage asset, does not propose the re-use of a redundant or disused building and would not involve the subdivision of an existing residential dwelling. The main consideration therefore in this case, is whether or not having regard to Paragraph 79, there is sufficient justification to demonstrate there are special circumstances for an isolated new dwelling in the countryside.
- 8.9. The applicant has presented a proposal for a contemporary design dwelling, with circular living arrangement and design, which would be situated to the south portion of an existing island in a curved formation, comprising 6 round pods facing south and extending round the curve with the last pod facing north east and generally following the curve of the previously engineered island. The proposed dwelling would be two storey in scale, and finished with a curved grassed roof. The outcome would be a contemporary design and proposed to be carbon neutral, and therefore low on its reliance on external means of energy provision.
- 8.10. To achieve permission for an exceptional development under paragraph 79 of the NPPF, the development should be truly outstanding or an innovative design, helping to raise standards reflecting the highest standards of architecture, significantly enhancing its immediate setting and be sensitive to the defining characteristics of the local area. It is therefore necessary to consider whether the proposal meets the special circumstances of being of exceptional quality or innovative nature of design as set out in Paragraph 79 of the NPPF.

#### Sustainable Technologies

- 8.11. The carbon zero dwelling proposes to employ a number of energy saving, energy generation, and energy management technologies. As part of the application the applicant has supplied an innovations and sustainability statement which covers the aspects of sustainable design and construction including energy use. The statement along with the design and access statement identifies and sets out the rationale for

construction, design, orientation of the proposal, and its aspiration to exceed current building control regulations.

8.12. In order to collect and store enough energy to sustain a house throughout the year the following technologies would be used:-

- During construction the dwelling would be designed to minimise air leakage
- Proof mounted PV and Batteries – these would be positioned on an existing brick
- agricultural building situated within the grounds of the application site, and upon
- the proposed garage pod.
- Mechanical heating and cooling – Ground based cooling and Ground based heating as well as solar cooling and solar heating.
- Trombe wall and solar slab
- Rammed earth
- Ozone pool
- Rainwater harvesting
- It is proposed that all energy required for the heating and cooling of the house and cars would be generated on site, through renewable energies.

8.13. The proposed technologies are not new technologies and are available to be employed within construction at present, to achieve a carbon zero dwelling. However the applicant has identified that these technologies used together present a deployment of Hybridised renewable technologies.

8.14. Whilst it is an aspiration that all developments seek to provide carbon neutral living, and reflective of the modern demands, it should be noted that the application site, has been previously subject to an application which proposed a dwelling on the site albeit in an alternative location within the site, which employed a number of technologies. This application was refused and subject to an appeal. The appeal was dismissed and states:-

*“The house would achieve a performance 30% better than Passive haus standards. Welcome though all these energy saving methods are, I doubt that they could be really described as ‘innovative’. Such technologies are not something newly introduced or a novel practice. While they are, regrettably, not ‘standard’ on volume built housing nevertheless they are all ‘known’ technologies and nothing exceptional or out-of-the ordinary”*

8.15. This application although a different proposal to that which was previously dismissed at appeal is not considered to overcome the issues which were raised at the appeal in that the proposed technologies are ‘all known technologies and nothing exceptional or out-of-the ordinary’. Whilst the approach towards utilising sustainable construction technologies is to be supported and encouraged widely, the NPPF states that the design is ‘truly outstanding or innovative’ and it is not considered that these technologies can be described as such, but rather it uses a number of existing technologies together to achieve a carbon neutral dwelling. The proposed dwelling would incorporate technology which would allow the capture and storage of solar energy, both on long and short term basis, through its incorporation of energy saving, energy generation and energy management technologies.

8.16. The orientation of the sun and maximising solar gain, has influenced the positioning of the ‘pods’ which are positioned along the east and west axis, to take advantage of the course of the sun east to west during the course of the day. A comment which was raised as part of the Design Review by ‘Opun’ which was carried out during the Pre-application stages of the proposal. However as part of the Design

review 'Opun' identified the importance of the necessity of *"demonstrating with rigour, how the environmental measures have shaped and informed the design of the building, to ensure a robust and appropriately tested solution."* As part of the application Target U Values and SAP predictions have been provided as part of the submission, however they are targets, and the failure to meet the a single aspiration of the proposal could significantly compromise this rating. It is not considered that the proposed development has provided and satisfied the Local Planning Authority with a robustly tested scheme to provide certainty of the proposal being delivered in its entirety.

- 8.17. The applicant references within the supporting information for the application that the development 'carbon zero', 'carbon neutral living' and 'low carbon', the use of these phrases raises questions if the proposal is a development which would have a carbon zero output or if it would be 'low carbon'. As discussed above it is not considered that sufficient information has been submitted to fully demonstrate the certainty of the proposal being 'carbon zero'.
- 8.18. The proposal does not propose technologies which are exceptional or out of the ordinary to result in an innovative design helping raise the standards or design in architecture generally. It cannot therefore be considered of exceptional quality in that it would be outstanding in terms of innovation, to help raise standards of design more generally in rural areas as the technologies exists to be utilised in developments.

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

- 8.19. Policy DM4 of the SADMP seeks to ensure development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Paragraph 79 of the NPPF identifies that the design of exceptional quality in that:-
- Is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 8.20. A previous scheme for the site has previously been dismissed on appeal (Reference APP:K2420/W/15/3030390) as the inspector found that *"that notwithstanding the unusual and unique design of the proposed house and its energy efficient features it would be located outside any settlement area in open countryside where planning permission is not usually granted for new development. This would be an unsustainable form of development for this reason and since it would fail to meet the rigorous tests required of a dwelling to be of exceptional quality or innovate design quality."*
- 8.21. The application site is situated to the north of Watling Street (A5), with a ribbon of development situated to the south east of the application site, which are of interwar housing, which front onto Watling Street. To the north west of the application site, is an Islamic College, with agricultural fields beyond.
- 8.22. The proposed dwelling would be situated approximately 365 metres north of the highway, and 100 metres away from the nearest boundary. The proposed dwelling would be situated within an enclosed 45 Hectares and would be situated upon an existing island within the lake, positioned within the southern part of the mound. To

the north a boat house is proposed, the dwelling would be accessed via a bridge, with a detached garage situated adjacent to this bridge, to serve as an arrival area prior arriving at the dwelling. The proposed dwelling would be largely screened from views from the streetscene due to the boundary treatment, which is mature. The application is typical of any urban or rural sites, and lacks any grandeur or exceptional quality, as found within appeal ref: APP/K2420/W/15/3030390.

- 8.23. The proposed dwelling and wider site would be accessed via a straight drive north away from the Watling street into the centre of the site, before diverting west to the garage/arrival area, introducing and formalising and extending an unpleasant straight drive from the highway . The proposed dwelling would be two storeys, and would comprise 6 roughly oval in shape pods interlinked, facing south and delineating the southern edge of the island. The elevations would comprise at lower level timber panelling and timber rainscreen/battens to the upper level, providing a vertical emphasis to the proposed dwelling, of which would be interspersed with glazing. The cantilevered roof would feature a sedum roof.
- 8.24. The proposed boat house would be of single storey and situated to the north of the island, and would be single storey in nature, with a pod like design reflective of the proposed dwelling. The proposed boat house, would be positioned upon stilts and extend into the existing water body. The elevations would be finished in blackened timber cladding with a curved grassed roof. Given its siting and single storey nature and proposed materials together with its relationship with the existing fishing lake, it is not considered that this building would result in an adverse impact upon the character of the area.
- 8.25. The application has been accompanied by a landscaping scheme for the site, which provides additional planting and management of the land as a whole. The proposal also identifies an area of the land to the south of the proposed dwelling to provide a sports pitch upon the main land, as well as a boat house to the north of the island. The proposed sports pitch although within the red outline of the application would be somewhat divorced and unrelated to the proposed dwelling, as well as areas proposed for bonfires, which would introduce an incongruous feature within the existing grass landscaped, regardless of the proposed planting which would enclose the proposed on site facilities. It would also suggest that the proposal seeks to encompass the wider site to form part of the residential curtilage of the dwelling proposed within this application, and would result in domestication of the site which is otherwise a rural setting. Paragraph 79 of the NPPF requires designs to 'significantly' enhance their immediate setting, which has a rural feel, of a field with a large lake. The proposed additional planting, landscaping and management the planting of native trees and landscaping proposals, would not be sufficient to 'significantly' improve the immediate setting. This is particularly the case when the proposal seeks to incorporate and domesticate the wider otherwise rural field.
- 8.26. Prior to the submission of the application, the applicant did enter into pre-application discussions with the Local Planning Authority where the proposal was subject to independent review by design panel, Opun. The concept of the development as a whole has been influenced by the existing water body and the fishing village/lodge concept, which are characterised by buildings of simple form and design. However the simplicity of the idea combined with a number of elements such as the two storey scale of the proposal, the compatibility of the use with the presence of cars on the island are not wholly in keeping with the concept, and consideration of a integrated design response.
- 8.27. The panel during the pre-app appreciated the aspirations for sustainable, energy efficient building, with the cellular concept which would allow parts of the building to be controlled separately. The proposal includes green roofs which were encouraged



as part of the discussions with Opun has an improvement in increasing and strengthening the bio-diversity and habitat mix for the site. However it was noted by 'Opun' that there is a need and emphasis for the energy strategy and environmental measures to be tested as this is the key driver of the proposal, to ensure its delivery.

- 8.28. Due to the central location of the dwelling, situated upon the island, the dwelling is designed specifically for the environment it is situated which is unlike any other application sites within the rural area, and therefore it is not demonstrated how this would raise the general standards of design within the area.
- 8.29. Having regard to the previous appeal (reference APP:/K2420/W/15/3030390), the comments received from Opun and the proposed development although unique in design and layout, the proposed dwelling would not raise the standard of design more generally in rural areas, and would not significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. The proposed dwelling would result in an incongruous feature within the countryside, and would not be considered truly outstanding in regards to the requirement of Paragraph 79. The proposal is therefore considered to be in conflict with Policy DM4 of the SADMP and the overarching aims and objections of the NPPF.

Impact upon neighbouring residential amenity

- 8.30. Policy DM10 (criterion a) of the SADMP requires that development does not adversely affect the privacy and amenity of nearby residents and occupiers of adjacent buildings. Due to the distance of the proposed dwelling from the neighbouring property No. 85 Watling Street it is not considered that the siting of the proposed dwelling would impact upon the amenity of this property through overlooking or overshadowing. The proposal is therefore considered to be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.31. 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. Leicestershire County Council (Highways) and the Highway Agency have not objected to the proposed dwelling. It is not considered that the development would not have a material impact on traffic and would provide sufficient off street parking. Furthermore the consideration of the access is not for approval as part of this application, due to being positioned outside Hinckley and Bosworth Borough Councils jurisdiction and previously approved by Nuneaton and Bedworth Borough Council under reference 035546.
- 8.32. It is therefore considered that the proposal would comply with Policies DM17 and DM18 of the SADMP.

Drainage

- 8.33. Policy DM7 of the adopted SADMP seeks to ensure that development does not create or exacerbate flooding.
- 8.34. The application site is situated within Flood Zone 1, and has been accompanied with a Flood Risk Assessment and a sustainable drainage statement to support the application site. The Lead Local Flood Authority and Environmental Health (Drainage) have been consulted during the course of the application having regard to the submitted details.
- 8.35. It is proposed that surface water from the site outfalls into the existing lake attenuated. However all proposed development would increase the impermeable

area, including access road, and should be drained to the equivalent greenfield rates and supported by hydraulic calculations where necessary.

- 8.36. The Flood Risk Assessment also identifies that should the volume of the water body within the site be exceeded, it would overtop on the northern bank away from the proposed development. However, an assessment of the risk overtopping towards the adjacent Hijaz Manor and industrial estate to the south east should be included as part of the application. An assessment of whether the water body has capacity to receive the surface water runoff from the proposed development therefore should also be provided.
- 8.37. The Flood Risk Assessment states that a number of sustainable drainage systems (SuDs) features would be incorporated into the design of the proposed development which are intended to mitigate the risk of surface flooding to the wider area. However, a drainage strategy and details of the proposed SuDs have not been provided for review, ensuring that management of residual flood risk is not increased for the lifetime of the development. The Lead Local Flood Authority in light of the above, have advised that the proposed drainage strategy is insufficient, and requires further information. The applicant during the course of the application has submitted further information for consideration, the LLFA have been re-consulted on these details and have not yet been received. The LLFA comments on the additional information will be reported as a late items.

#### Impact upon Ecology

- 8.38. Policy DM6 of the SADMP states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On-site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.
- 8.39. The application has been supported with the submission of an Ecology Survey, the contents of which has been considered by Leicestershire County Council (Ecology).
- 8.40. The proposed development is situated on the banks of a large lake, with some works to the bank/lake proposed. The survey recorded no evidence of protected species on site, although the site could support them, and therefore the recommendations contained within the Ecology Survey are necessary to be conditioned, should permission be granted. The application provides an opportunity to enhance the biodiversity on site, and the introduction of meadow grassland within the landscaping proposal is welcome, in addition to increasing the size of the reed beds within the lake, with tree planting comprises native species. The proposed dwelling seeks to provide 'green roofs' however in order for these to be of greatest value to biodiversity it is recommended that the roofs of the pods comprise a 'biodiverse green roof' rather than a sedum mat, which would afford significantly more opportunities for pollinating species. The proposed would therefore comply with Policy DM6 subject to the imposition of conditions ensuring that the development adherers to the recommendations contained within the Ecology report and landscaping scheme is submitted prior to development for agreement.

#### Planning Balance

- 8.41. 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. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. However, local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 8.42. In this case, conflict has been identified with Policy DM4 of the adopted SADMP as the site and proposed dwelling is situated outside the settlement boundary and within the countryside where new residential development is not supported by these strategic planning policies.
- 8.43. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate five years of deliverable housing using the standard method. However, owing to the change in the housing figures required for the borough paragraph 11 of the NPPF is triggered.
- 8.44. This is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.45. Paragraph 8 of the NPPF states that sustainable development has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. The assessment of the three dimensions relative to this proposal are as follows:
- 8.46. Economic – The proposed development would provide a very limited short term benefit to the local economy through the creation of jobs and demand for local services during the construction period. Any support for local services would be limited by the scale of development (one dwelling) and the lack of such services in this isolated position outside any defined settlement boundary, and the need to access services in other larger settlements by the use of the private car.
- 8.47. Social - The occupation of the proposed dwelling would provide a private benefit to the applicant, however, in terms of other social benefits, the proposal would make a minimal contribution to the housing supply and the weight attached to this is further limited by the fact that the Council has identified sufficient land to meet local housing requirements for at least the next 5 years and in locations that have better access to services and facilities.
- 8.48. Environmental – The application site comprises a large parcel of land, which benefits from a large lake, which although man made, due to the passage of time the surrounding vegetation has matured along the banks and upon the island, creating a soft and natural environment. The proposed development seeks to provide a dwelling, which is proposed to be a carbon zero development, and would use a range of development and building methods to achieve this, in which the applicant has presented to be an innovative type of development and therefore should be considered in light of its special circumstances in which it seeks to improve building methods on wider scale.

However the proposed residential development would introduce alien features within the site, such as football pitches, and engineered access road which would dissect through the application site, as well as the erection of the proposed substantially sized dwelling with detached garaging and boat house. Although views of the site are contained, they would appear incongruous in the context of the site and would not significantly enhance the immediate setting. Given the constrained views the design and construction techniques employed with the course of the development would not be readily accessible and would therefore have limited impact in terms of influence upon wider built developments in the future.

- 8.49. Therefore having considered the special circumstance of the application, and having regard to the fact that the Borough Council do not agree that the proposed dwelling would be considered of a design deemed exceptional quality under Paragraph 79 of the NPPF, it is not considered that there are any significant

benefits identified which would outweigh the harm of this single dwelling in the countryside.

## **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. In conclusion, the proposed dwelling would incorporate advanced technology to reduce the carbon footprint of the development, which would employ the use of sustainable construction techniques. However it is not considered that the dwelling would be of an exceptional or innovative design to justify a new dwelling in an unsustainable location in the open countryside, removed from services and facilities. Nor would the proposal result in the significant enhancement to its immediate setting. The proposal would also result in the over domestication of an otherwise rural setting with the introduction of formal pitches and built form which would appear out of character within this outside of settlement location.

10.2. The proposal is therefore considered to be contrary to Policies DM1, DM4 and DM10 of SADMP and Paragraph 79 of the National Planning Policy Framework.

## **11. Recommendation**

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

### **11.2. Reason**

1. The proposed dwelling fails to be of an exceptional quality to satisfy the requirements of Paragraph 79 of the National Planning Policy Framework and would therefore constitute an unsustainable form of development without justification in the countryside. Accordingly the proposal is contrary Policies DM1, DM4 and DM10 of the adopted Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD (2016), Policy 12 of the Core Strategy and Paragraph 79 of the National Planning Policy Framework (2018).