

**Planning Committee 23 July 2019
Report of the Planning Manager**

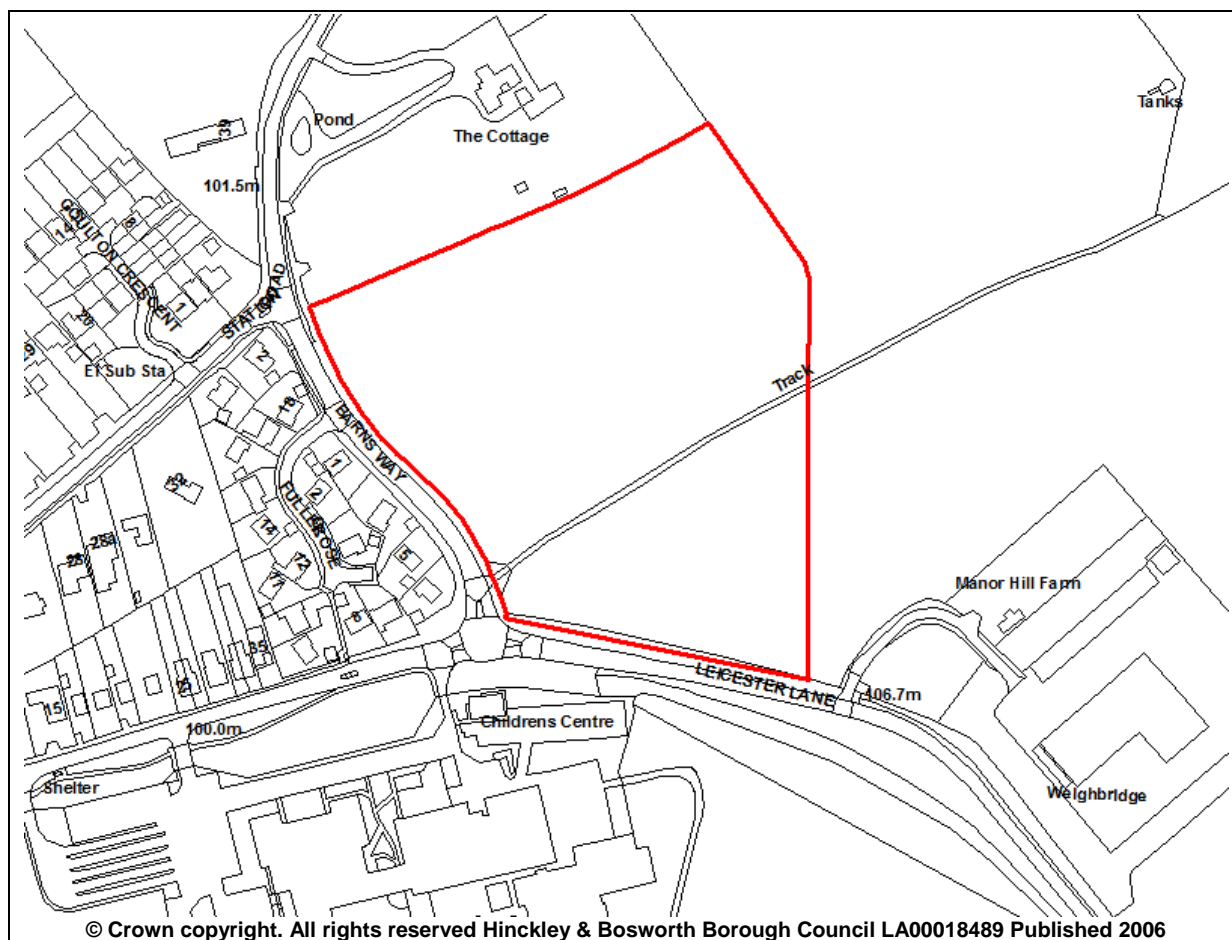


Hinckley & Bosworth
Borough Council

Planning Ref: 19/00149/OUT
Applicant: Rosconn Strategic Land
Ward: Newbold Verdon With Desford & Peckleton

Site: Land Opposite Bosworth College Leicester Lane Desford

Proposal: Residential development of up to 80 dwellings and associated works
(Outline- access only)



1. This application was reported to the previous Planning Committee on 25 June 2019. Notwithstanding the officer's recommendation that permission be granted, members were minded to refuse the application.
2. Concerns were raised regarding the impact of allowing the development on the character and appearance and intrinsic value of the countryside and its compliance with Policy DM4 of the SADMP.
3. Since the Planning Committee meeting on 25 June 2019, the Council has received a planning appeal decision for a proposed housing scheme at Land at Crabtree Farm, Hinckley Road, Barwell (appeal reference APP/K2420/W/19/3222850). This appeal was allowed. The inspector confirmed that the Council can not demonstrate a five year supply of housing

land and gave substantial weight to the provision of new housing (paragraph 29 of the decision). The inspector concluded:

'There is an agreed significant shortfall in housing land supply. The homes would be located in an accessible location and would bring economic and other benefits. To be weighed against that is the harm that I have found in relation to the character and appearance of the area and to the role and function of the Green Wedge. In my view, that harm would be limited in the wider context and would not outweigh the significant benefits of the proposal, let alone significantly and demonstrably outweigh them when assessed against the Framework as a whole. In these circumstances, I consider that the appeal scheme would comprise sustainable development and the presumption in favour of such, as set out in the Framework, and the development plan, applies. That is a significant material consideration that outweighs any conflict with some elements of the development plan. Therefore, for the reasons set out above, I conclude on balance that the appeal should succeed.' (Paragraph 54 of the decision)

4. This appeal is a material consideration when weighing the merits of this planning proposal, it identifies the weight to be given to the provision of housing in the Borough as substantial and any harm identified must be significant and demonstrable to outweigh this benefit.
5. Additional comments have been received from Desford Parish Council and are summarised below;
 - Desford Parish Council wish to reiterate our support for the proposal.
 - This site emerged as the preferred site in the parish during the Neighbourhood Plan process, using a sustainability appraisal of each site using the same objective criteria applied consistently to each site by our consultants.
 - It is anticipated that the Pan will go to referendum in late 2019/early 2020
6. The applicant has highlighted that page 16 of the submitted Design and Access Statement sets out the design principles that establish the net developable area, which is 2.4ha and therefore concludes that the net density for 80 dwellings would be 33 dwellings per hectare which is policy compliant.
7. Following the previous committee the agent has provided additional information in response to matters raised by members and is summarised below
 - The Neighbourhood Plan process clearly identified the application site as the preferred option.
 - The applicant confirms that the site remains both viable and deliverable having taken the s.106 requirements into account.
 - The proposed development provides an equipped children's play space larger than policy requirements for the scheme, which is needed in this part of Desford.
 - The site is accessible via a number of sustainable transport modes and within walking distance of a number of facilities.
 - The Transport Statement (reviewed and agreed by LCC Highways) confirms the vehicle movements generated by the site can be safely accommodated with the proposed access and the capacity of the adjacent junctions.

- All new dwellings would be provided with high speed broadband and the applicant is in agreement with a condition.
 - The Ecological Appraisal confirms Botcheston Bog would not be affected by the proposal.
 - HBBC (Pollution) has no objection to the application subject to condition relating to the submission of a written scheme of investigation.
 - It is acknowledged that the proposal leads to the loss of a green fields site, however, this is necessary to address the housing needs. Any harm to the countryside would be relatively limited.
8. Members discussed the importance of fibre broadband at the previous Committee, paragraph 112 of the NPPF also emphasises this importance. Albeit, the Council does not have an adopted Local Plan policy, in this instance the applicant has agreed to a condition, as stated above, therefore an additional condition is recommended to those identified in section 12 of the original report (see Appendix A);

24. Prior to the commencement of development a scheme for the delivery of full fibre broadband connections to serve each dwelling on the application site, shall be submitted to and approved in writing by the Council. The fibre broadband connection shall be made available to each dwelling in accordance with the approved scheme.

Reason: To provide advanced high quality and reliable communications infrastructure to accord with paragraph 112 of the National Planning Policy Framework (2019).

9. The application proposal has not been altered. The recommendations to Planning Committee do not alter from those identified in the previous report to committee and the proposal is considered acceptable in planning terms and recommended for approval subject to the conditions contained in the previous report attached at Appendix A and the additional condition identified above.

APPENDIX A

Planning Committee 25th June 2019
Report of the Interim Head of Planning

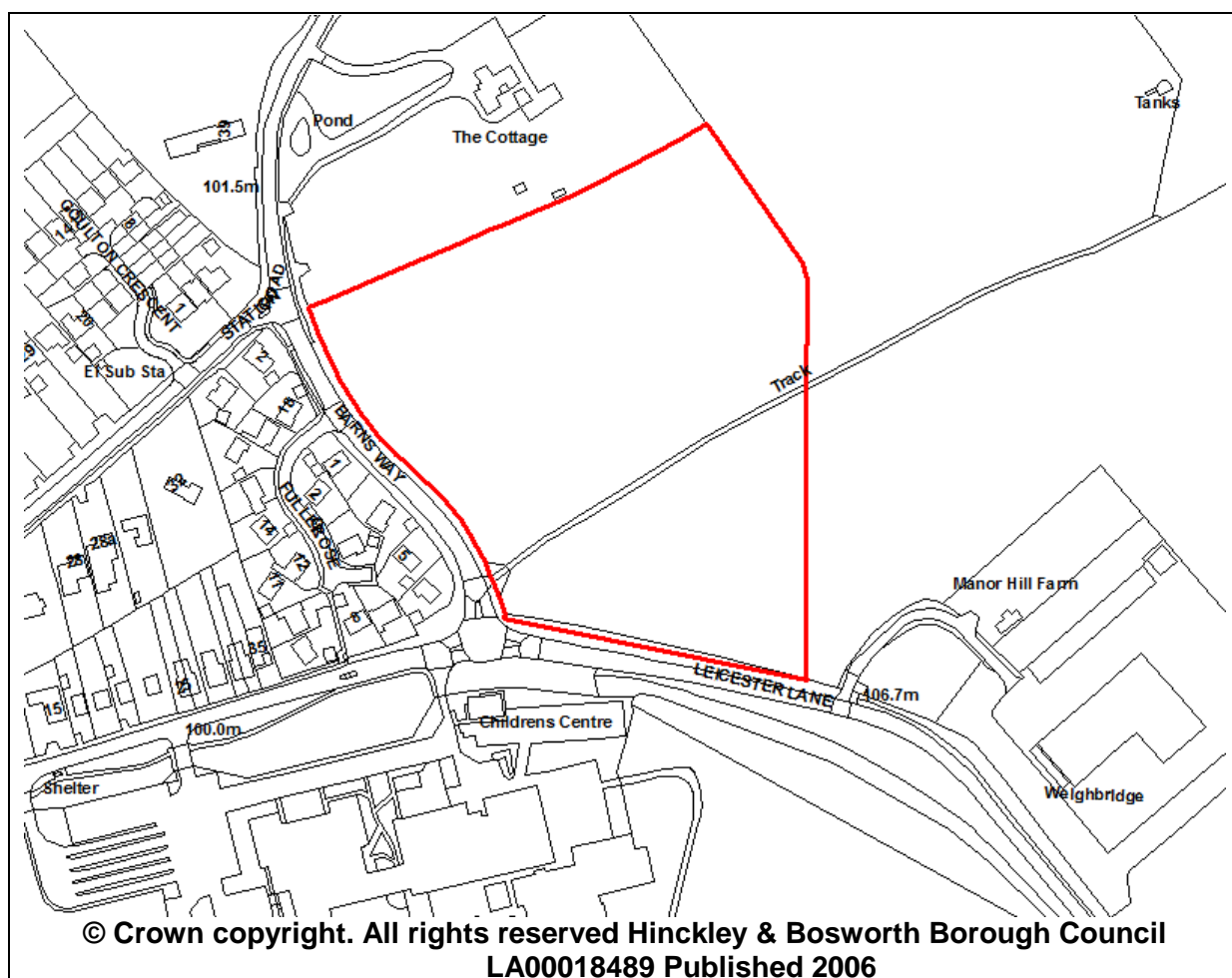
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1. Recommendations

1.1. Grant planning permission subject to

- The prior completion of a S106 agreement to secure the following obligations:
 - £640,098.00 towards Education
 - £184,785.00 towards provision and maintenance of Play and Open Space
 - 40% Affordable Housing provision on-site with a mix of 75% social or affordable rent and 25% intermediate tenure and a mix of 66% of the rented accommodation to be 2 bedroom houses and a remainder as a mix

of 1 bedroom accommodation. The intermediate tenure should be a mix of 2 and 3 bedroom houses.

- £51,840.00 Health Care Provision at Desford and Ratby surgeries.
- Suitable Highways Mitigation including
 - Travel Packs; at a cost of £52.85 per pack
 - Six month bus passes, two per dwelling £360.00 per pass
 - Residential Travel Plan monitoring fee of £6,000
 - Travel Plan Co-ordinator
- £3962.00 towards Civic Amenity at Barwell
- £2,410 for Library Services at Desford Library.
- Provision of footpath links across Barns Way
- Planning conditions outlined at the end of this report

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

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

2. Planning Application Description

2.1. This application seeks outline planning permission for up to 80 dwellings with associated public open space, landscaping and infrastructure. All detailed matters are reserved for later determination, except access.

2.2. As the application is outline the proposed housing mix is unknown. However, the applicant has identified that 40% of the housing to be provided would be affordable housing, if 80 dwellings were to be provided this would result in 48 market dwellings of which 32 dwellings would be affordable with a mix of 24 dwellings for social rent and 8 intermediate dwellings for shared ownership.

2.3. An indicative masterplan has been provided showing how the site could accommodate a development of up to 80 dwellings and shows a variation of house types.

2.4. The proposed access would be via a new junction off Barns Way, and would incorporate vehicular, cycle and pedestrian access.

2.5. The proposal includes open space and children's play facilities (LEAP) including planting, pedestrian/cycle links around the edge of the site connecting in to existing footpaths. The proposed LEAP is shown on the masterplan to the north eastern part of the site, with the public open space following the eastern edge of the site adjacent to the open countryside.

2.6. The following documents have been submitted in support of the application; Planning Statement, Design and Access Statement, Landscape and Visual Impact Appraisal, Transport Assessment and Travel Plan, Flood Risk Assessment and Drainage Strategy, Geotechnical Desk Study and Geophysical Survey, Preliminary Ecological Appraisal, Tree Constraints Impact Assessment and a Archaeological Desk Based Assessment.

3. Description of the Site and Surrounding Area

3.1. The application site comprises 3.46ha of grassland located on the eastern edge of Desford. The site is considered to be Countryside as defined by the Site Allocations and Development Management Policies DPD (2016).

3.2. The site comprises a single field split by an existing farm track, recently sown as grassland, which is broadly defined by Barns Way to the west and the rear private

garden of a large residential dwelling known as 'The Cottage' to the north. To the east lies open farmland, which is comprised of irregular shaped fields defined by hedgerows and trees. An isolated residential property, Manor Hill Farm and a series of associated modern agricultural barns are located immediately to the south west of the site with farmland beyond. The educational complex of Bosworth Academy is located immediately to the south of the site beyond the B582 Leicester Lane.

- 3.3. Mature trees situated within the private garden of the adjacent property to the north and a hedgerow defines the northern site boundary. To the east and south the site is more exposed, with juvenile hedgerow planting defining its eastern boundary. To the south, a grass highway verge and some vegetation lines the boundary. Vegetation along the western boundary is more established, yet fragmented. The site is highly visible from Barns Way and Leicester Lane.
- 3.4. The nearest listed building is located 150m to the southeast of the Site, as a grade II listed sculpture within Bosworth Academy.
- 3.5. Barns Charity Fields local wildlife Site is located 150m to the north east of the Site, the fields are used for light pasture and contain ridge and furrow.
- 3.6. Botcheston Bog SSSI is located 800m to the north of the Site, and is recognised for its importance as one of the best remaining areas of marshy grassland in Leicestershire.

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 and a notice was displayed in the local press.
- 5.2. 7 Letters of objection have been received from 6 separate addresses; the comments are summarised below:
 - Station Road, Barns Way and Leicester Lane are already over congested
 - Road system through the village is unable to cope with amount of traffic and existing issues with HGVs using Station Road. There are already too many minor accidents already
 - There is a major school opposite the site is an accident waiting to happen.
 - Proposal doesn't include community facilities leading to environmental issues as people have to travel to shops, social amenities, school, work and medical facilities.
 - Increase in speed using Station Road, Barns Way and Leicester Lane increasing pollution and safety concerns.
 - The community facilities cannot support a large urban community and there is no dedicated parking to support events.
 - Desford has already met its housing requirement using green filed sites
 - This speculative development includes a large proportion of social housing- what are the financial plans of HBBC to support this community. HBBC 6th worse debt in country relating to social housing

- Eco provision for ground/air source heating, insulation, difficult with expense to HBBC.
- William Barns provided this land for the betterment of the society; we question whether this development will address this.
- Once the principle is established of development on this agricultural land, the result will be a normal speculative development with little concession to our neighbourhood, creating an isolated community.
- Trees to side of property are in our ownership and provide shielding from traffic noise. If these are removed, additional planting should be provided.
- Existing agricultural track proposed to be replaced, but would not be wide enough.
- Where will the overflow from the drainage pond go, there are no surrounding ditches, what impact would the increase in water have on the nearest brook.
- There should be more trees along the boundary
- Concern that farming activity on adjacent land will be noisy and would not want complaints from new residents, already receive complaints.
- Development is outside the development area, which is there to stop over development and protect wildlife.
- It will obliterate the far reaching view
- Will destroy the rural village feel that gives Desford its character.
- Development will add to traffic going towards Desford crossroads
- This site is a long way from facilities in the village meaning residents would use vehicles through the village for every day journeys.
- Development of the farm buildings has already spoilt the view, this will make it worse.
- Barns Way was supposed to be the edge of the village
- Manor Hill Farm already spoils view
- Additional access complicates road junction

5.3. There has been 2 letters of support from 2 separate addresses; the comments are summarised below:

- This is the preferred site for development in our village and I support the Neighbourhood Plan. The site is in easy reach of the village centre and hopefully an additional traffic from the development will not be too intensive on the already very busy roads.
- 27 year old living at home with parents in Desford and would like the opportunity to buy an affordable housing as a first time buyer in Desford.

6. Consultation

6.1. No objection, some subject to conditions and/or obligations have been received from;

- HBBC Street Scene Service- Waste
- NHS West Leicestershire
- HBBC Pollution

- HBBC Affordable Housing
- LCC Developer Contributions- Education, Civic Amenity and Libraries
- LCC Ecology
- HBBC Policy
- Severn Trent Water
- HBBC Drainage
- Natural England
- LCC Drainage
- LCC Archeaology
- LCC Highways
- HBBC Conservation

6.2. No comments have been received from;

- Leicestershire Police
- HBBC Arboricultural Officer

6.3. Desford Parish Council raise no objections but have made the following comments to make;

- The right of way to Barns Charity Fields should be maintained and be a sufficient width to enable access for farm vehicles
- There should be a locked gate at each end of the access to prevent residents parking.
- It should be made clear that the track beyond the development is not a public right of way.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres relating to Leicester
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

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

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

- 7.3. Desford Neighbourhood Development Plan Pre-submission (November 2018)
- 7.4. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
 - Community Infrastructure Levy (CIL) Regulations (2010)
- 7.5. Other relevant guidance
 - Landscape Character Assessment (2017)
 - Landscape Sensitivity Assessment (2017)
 - Open Space and Recreation Study (2016)
 - Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA)
 - Affordable Housing SPD (2011)
 - Leicestershire Highways Design Guide

8. Appraisal

- 8.1. Key Issues
 - Assessment against strategic planning policies
 - Design and impact upon the character of the countryside and character of the areas
 - Affordable Housing and Housing Mix and Density
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Flooding and Drainage
 - Ecology
 - Pollution
 - Archaeology
 - Infrastructure Contributions
 - Other Issues

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2018) 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 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. Desford is identified as a key Rural Centre within Policy 8 of the Core Strategy. To support its role as a Key Rural Centre focus is given to limited development in these areas that provides housing development within settlement boundaries that delivers a mix of housing types and tenures as detailed in Policy 15 and Policy 16 as well as supporting development that meets Local Needs as set out in Policy 17.

- 8.5. Policy 8 provides the policy framework for each Key Rural Centre relating to Leicester. The first criterion for Desford seeks the provision of a minimum of 110 new homes.
- 8.6. However, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by Ministry Housing Communities and Local Government (MHCLG). Therefore, the application should be determined in accordance with Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.7. The consideration under Paragraph 11 (d) is weighed in the balance of the merits of any application and 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.
- 8.8. This site lies outside of the settlement boundary of Desford (DES01) and is identified as countryside on the Borough Wide Policies Map and therefore policy DM4 should be applied. Policy DM4 of the adopted SADMP seeks to protect the intrinsic value, beauty and open character and landscape character through safeguarding the countryside from unsustainable development.
- 8.9. Policy DM4 states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
 - It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.and:
 - It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development;
- 8.10. The site does not fall under any of the categories identified in DM4 as sustainable development and so there is a clear conflict between the proposed development and the policy. This proposal will need to be carefully weighed in the planning

balance along with the detailed assessment of the other relevant planning considerations in this case.

- 8.11. The planning application site aligns with the residential allocation (for around 70 dwellings) within the emerging Desford Neighbourhood Development Plan (DNP). However, as this plan has not yet been submitted for Examination the document is afforded limited weight in determining this application.
- 8.12. The Borough Council is actively promoting the preparation of Neighbourhood Development Plans and is keen to see communities strongly involved in the planning and future growth of villages. The site that the DNP at policy H2 proposes to allocate is the application site and this is the site which the Parish Council concludes is the least damaging and most sustainable from those sites included in the Site Assessment Summary for the SHLEAA relating to Desford.
- 8.13. The DNP has not been “made” and so the advice at paragraph 14 of the Framework is not applicable. However, the DNP is a material consideration in this decision making process and the weight to be given to it is set out in paragraph 48 of the Framework. Factors to be considered to the weight to be given to the DNP include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, decision makers should respect evidence of local support prior to the referendum. The consultation responses submitted with the draft neighbourhood plan do not indicate strong evidence of community support for the DNP allocation. Instead, the responses received indicate community objections to any further development in Desford. Therefore, at present, it is uncertain how the community of Desford wishes to shape its local environment as laid out in paragraph 29 of the Framework. .
- 8.14. Whilst the application site is the preferred site in the DNP and despite the limited objections received during the consultation process for this application, the weight to be given to the DNP at the present time is limited due to the early stages of its development and the lack of evidence of community support for the preferred site.
- 8.15. The site is grade 3 agricultural land the loss of this should be weighed in the balance of the merits of the scheme.
- 8.16. This application is for the development of housing outside the settlement of Desford within the countryside it is contrary to Policy 8 of the Core Strategy and Policy DM4 of the SADMP. Therefore there is a conflict with the spatial policies of the development plan. However, paragraph 11(d) of the NPPF is engaged and therefore a ‘tilted balance’ assessment must be made. This must take into account all material considerations and any harm which is identified. All material considerations must be assessed to allow this balance to be made.

Design and impact upon the character of the countryside

- 8.17. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.18. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It should be noted that as the development is not considered to be sustainable development in the countryside in accordance with the first part of Policy DM4, any harm to the

intrinsic value, beauty, open character and landscape character of the countryside would therefore be unjustified.

- 8.19. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage assets. All proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Development proposals should also ensure the significance of a conservation area is preserved and enhanced.
- 8.20. The Borough's Landscape Character Assessment (2017) identifies the site within the Newbold and Desford Rolling Character Farmland. This area is characterised by predominantly arable farmland with clustered areas of industry and recreational facilities near to the village fringes and clustered villages of varying sizes centred on crossroads. Large to medium sized field patterns are common in the area defined by single species hawthorn hedgerows. The application site is characterised by arable farm land following an existing field pattern and open views on the village edge, it is considered to demonstrate many of the characteristics prevalent in this landscape character area. There is a tree lined boundary to the north of the site, which separates the site from a large residential curtilage. Juvenile planting divides the site from the farm land beyond the site to the east, this is not a strong boundary. The south and western boundaries are formed by Barns Way and Leicester Lane, creating a physical boundary to these edges.
- 8.21. The site is situated within a prominent position along the Barns Way, Leicester Lane junction and lies within an area where open countryside can be viewed from the settlement of Desford as described in the LCA. The proposal retains the existing landscaping to the north, south and west boundaries and introduces a stronger landscape boundary to the east. Whilst the development of this land would have an impact on the open character of the countryside in this location, the level of this adverse impact would be moderate in this edge of village location the reasons for this are set out below.
- 8.22. The submitted Landscape and Visual Impact Appraisal sets out the landscape qualities of the site, this includes the trees and hedges to the margins which are described as unmanaged but in reasonable condition, the site offers expansive views over open countryside contributing to the rural character of the village. However, the appraisal sets out how this view is interrupted by urban features in the distance and being further diminished by the sites proximity to the built up area of Desford. The LCA recognises that the site is representative of the landscape character area but has little conservation or recreational value. The appraisal attributes no/negligible effect on the landscape character based on the site only being experienced from a localised area rather than the character area as a whole and the proposed landscaping to the east creating a new wooded edge to Desford. The site has no landscape designations within it.
- 8.23. The visual impacts of the proposal are restricted to those immediately alongside the site and those to the east where the open landscape provides clear views towards the site. The visual impact is described as being moderate adverse from the most localised views by closing off the available view. Views from the east are described as having a slight beneficial impact as once the landscaping is matured the views here will become verdant. The mitigation put forward by the appraisal is maintaining the undeveloped eastern edge of the proposal and maintaining a view corridor though the site looking east from Desford, which is currently shown on the Development Framework Plan, this would provide views through the development over the rural landscape which is an important characteristic helping define the character of the village.

- 8.24. Whilst it is agreed the impact to landscape is limited, despite the mitigation put forward the impact to localised views from Desford is of moderate adverse harm. The LVIA acknowledges the view available here is important to defining the character of Desford and it is not felt that the 'view corridor' would allow for the same open view that is currently experienced at the edge of the village. The 'view corridor' proposed takes the opportunity to use the existing farm track, however, this is offset to one side and would not allow immediate views looking east from Leicester Lane that are currently available and which currently define the rural edge of the village. Therefore there would be moderate harm to the character of the area caused by the visual impact of built development in this location would have on the open character of the countryside that in this location which provides a rural setting to Desford
- 8.25. The proposal would extend development beyond the settlement boundary of Desford and it is considered that the proposal would result in harm to the character and appearance of the area and would therefore conflict with Policy DM4 and DM10 of the SADMP DPD.

Historic Environment

- 8.26. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.27. Section 16 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (paragraph 193).
- 8.28. Paragraph 189 of the National Planning Policy Framework (NPPF) requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The desk-based assessment and landscape and visual impact appraisal includes a limited assessment on the direct physical and visual impact on heritage assets and their settings however the Conservation officer is satisfied the level of detail submitted as part of this application is proportionate and meets the requirements of paragraph 189.
- 8.29. Paragraph 190 of the NPPF also requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). The application site is located approximately 600m west of the historic core of Desford and is likely to have remained in agricultural use (it is identified as enclosed agricultural fields on the 1760 enclosure and 1845 tithe maps) away from the settlement in a wholly rural location until the surrounding area to the north, west and south were developed from the 20th century onwards. There are no statutory designated heritage assets within or in close proximity to the site. The closest listed building is 150m away; this being a grade II listed sculpture within the grounds of Bosworth Academy. There are a number of listed buildings located further to the west within the Desford Conservation Area which covers the historic core of the village. The most visually prominent building within the conservation area is the grade II* listed Church of St. Martin. There are also a small number of scheduled monuments and listed buildings located within a wider search area from the site.

There are no statutory landscape designations within or in close proximity to the site.

- 8.30. Based on the indicative drawings and information within the Design & Access Statement it is considered that the development of 80 dwellings on this site would maintain the very minor positive contribution that the application site makes to the significance of the grade II* listed Church of St. Martin and therefore the impact of the development on the significance of the church is considered to be neutral.
- 8.31. The proposal would therefore have a neutral impact upon the historic environment of Desford and therefore accords with DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duties of sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and paragraphs 189 and 190 of the NPPF.

Affordable Housing, Housing Mix and Density

- 8.32. Policy 15 of the Core Strategy requires residential development in rural areas to provide 40% Affordable Housing with a tenure split of 75% social rented and 25% intermediate housing. The details submitted with this application would suggest that based upon the delivery of 80 dwellings on site this proposal would provide 32 dwellings for affordable housing 24 for rent and 8 for intermediate tenure, in accordance with policy.
- 8.33. Using data from The Housing Register (at December 2018) of the applicants on the housing register (as at February 2019) 60 have a local connection to Desford for the following property sizes:
- 1 bedroom properties- 24 applicants
 - 2 bedroom properties- 22 applicants
 - 3 bedroom properties- 13 applicants
 - 4 bedroom or more- 1 applicant
- 8.34. The greatest need for rented housing in Desford is 2 bedroom 4 person houses and 1 bedroom 2 person homes and 1 bedroom bungalows. The preferred mix would be 66% of the rented accommodation to be 2 bedroom houses and a remainder as a mix of 1 bedroom accommodation. The intermediate tenure should be a mix of 2 and 3 bedroom houses. However, this is an outline scheme and the layout is not being considered at this time, the number and mix of housing could be agreed by a legal obligation. HBBC (Affordable Housing) is in support of this mix.
- 8.35. Since Desford is in a rural area the s106 agreement should include a cascade that the affordable housing for rent is offered firstly to people with a connection to the parish, and secondly to people with a connection to the Borough.
- 8.36. Policy 16 of the Core Strategy states that proposals for new residential development will be required to meet a minimum net density of a least 30 dwellings per hectare within key rural centres such as Desford. The density of the proposed site is 23.5, which is lower than the prescribed policy position. However, this policy also sets out where individual site characteristic dictate and are justified, a lower density may be acceptable. In this instance a lower density is considered to be acceptable due to the equipped play space that is being provided, this is above the policy requirement for open space and meets a need identified for Desford. The closest public open spaces to the site do not have equipped play, therefore this provision is a priority. Further to this, the site is bound on two sides by hedgerows and trees which are considered to be important to mitigating the impact of the development on the character of the area (as discussed), LCC (Ecology) seek a 5m

buffer to this planting which again reduces the available developable area of the development.

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

Impact upon neighbouring residential amenity

- 8.38. 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 and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.39. Objections have been received from local residents with regard to residential amenity by way of additional noise and traffic as well as loss of view. However, the loss of view is not a material planning consideration.
- 8.40. By virtue of the size of the site and subject to satisfactory layout, scale, design and landscaping which are matters reserved for future consideration, the indicative layout submitted demonstrates that the site could be developed for up to 80 dwellings with satisfactory separation distances and without resulting in any significant adverse impacts on the privacy or amenity of the occupiers of any neighbouring properties.
- 8.41. 'The Cottage' borders the site to the north, however this residential property is surrounded by a large amenity space and a mature verdant boundary and is buffered from the proposed dwellings by accessible green space. Manor Hill Farm is to the south east of the site, but is not immediately adjacent to the site and is surrounded by agricultural land. There are residential properties to the west of the site, however these are separated from the site by Barns Way accessible green space, therefore sufficient separation distance is maintained.
- 8.42. It is not considered that additional traffic using the highway network would be so adverse to the residential amenity of surrounding dwellings that it would warrant the refusal of the application, no objection has been raised by HBBC Environmental Health with this regard.
- 8.43. Concern has been raised for adverse impacts of farming on the residential amenity of future occupiers. However, it is considered that there would not be sufficient adverse impacts to warrant refusal on this basis.
- 8.44. The proposal is therefore considered to be in accordance with Policy DM10 as the amenity of neighbouring occupiers of the proposed development would not be adversely affected to warrant refusal of the application.

Impact upon highway safety

- 8.45. 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.
- 8.46. Access is a matter for determination by this application and a detailed access plan has been provided. In addition to this, the proposal has been supported by the submission of a Transport Assessment and Travel Plan that conclude the proposal

would not have adverse impact upon the safe operation of the local highway network.

- 8.47. The highway authority have requested additional modelling to be undertaken, taking in to account any adverse impact upon Desford Crossroads, this was provided by the applicant. The analysis demonstrates that, following the introduction of development traffic, the junction's overall practical reserve capacity will be -43.1%. Development traffic will exacerbate an already overloaded situation resulting in a deterioration of junction performance. Therefore, subject to adequate mitigation in the form of financial contributions to the upgrade of this junction the highway authority does not object to the proposal.
- 8.48. The mitigation contribution is sought from the Highway Authority towards road improvements to the Desford Crossroads is sought from the proposal. However, such a request would not be CIL compliant as the number of contributions requested for this scheme has already exceeded the threshold of 5. Therefore, the Highway Authority has confirmed that this contribution request would form part of a Section 278 agreement instead.
- 8.49. The highway authority has also confirmed that the geometry and visibility splays shown on the plan serving the proposed primary site access (drawing no. ADC1902-DR-001 Rev. P7) are Leicestershire Highway Design Guide (LHDG) compliant.
- 8.50. The Barns Charity Trust commented on the application with regard to a right of way that exists across the application site. This relates to an existing farm access that gives right of way to charity owned meadow beyond the application site. The trust requested that the access be maintained and is available for their use to maintain the land in their interest. The amended Development Framework Plan provided with the application demonstrates that this will be maintained through the site. The highway authority states that this access will not be intensified as a result of this development proposal, and subject to necessary access improvements and appropriate gate set-back distance in line with LHDG the highway authority does not object to its retention.
- 8.51. This development proposal includes the provision of pedestrian links to the north and south of the site access which tie in with the existing provision along Barns Way and the B582, and the use of an existing refuge island to provide an uncontrolled crossing north of the existing roundabout. This provision as detailed in the revised plan is generally acceptable and can be secured through a legal agreement.

Travel Plan

- 8.52. The submitted Travel Plan identifies that the scheme is in a location accessible by all modes of transport and it is therefore in a good location for residential development. The proposed development is well connected in to the existing vehicular and pedestrian networks and there are good opportunities for public transport. The Travel Plan sets out two targets 1; to make all residents aware of the Travel Plan and 2; promote sustainable modes of travel to achieve a 10% reduction in single occupancy of the car. A Travel Plan co-ordinator will be appointed who will monitor the Travel Plan process. It is considered reasonable to condition this and include the contributions towards the monitoring of this within the s.106, as per LCC (Highways) comments on this application.
- 8.53. Overall, the proposal does not have a significant adverse impact upon highway safety with adequate mitigation, the submitted Travel Plan satisfies the need to encourage sustainable transport and there is no concern that parking can not be

provided in accordance with guidance, therefore the proposal is in accordance with the requirements of Policy DM17 and DM18 of the SADMP.

Flooding and Drainage

- 8.54. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding.
- 8.55. A Flood Risk Assessment has been submitted with the application in accordance with paragraph 163 of the NPPF.
- 8.56. Severn Trent Water commented on the proposal with regards to the proposed strategy for dealing with foul water. The proposal is a pumped solution which STW suggested would need a modelling assessment to determine the impact of flows from the site on the network. The developer completed a developer enquiry with STW that confirmed that a minimum pump rate of 3.8l/s would be acceptable to the identified man hole 4504. It also confirms that a gravity sewer connection is not possible due to site level issues meaning this is not achievable (the man hole is to the west of the site, the land level falls to the east).
- 8.57. With regard to Surface Water Drainage the site is located within Flood Zone 1 being at low risk of fluvial flooding. There are areas of low surface water flood risk as indicated in Figure 3 of the submitted Flood Risk Assessment. Run-off rates are proposed to be limited to the Greenfield QBar run off rate.
- 8.58. The surface water strategy proposed is to direct run off to an on-site attenuation feature to the east (low lying area of site), the attenuation basin does also include a permanent pond feature (welcomed by LCC Ecology). The attenuation feature is connected to a control chamber that limits run off to a greenfield rate, run off is discharged from here to the existing ditch course leading to Rotherly Brook. The Lead Local Flood Authority (LLFA) initially requested further information regarding the surface water drainage strategy, surrounding field ditches were surveyed following these comments and the outfall from these confirmed and the strategy updated. Following the submission of this additional information the LLFA responded with no objection subject to conditions. The proposed conditions are considered to be necessary and reasonable.
- 8.59. HBBC (Drainage) also commented on the application and have no objection subject to conditions in accordance with LCC (Drainage) response.
- 8.60. The proposed development is considered to accord with Policy DM7 of the SADMP and would not create or exacerbate flooding and is located in a suitable location with regard to flood risk.

Ecology

- 8.61. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.62. Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.63. The presence of protected species is a material consideration in any planning decision, it is essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals is established prior to planning permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions.

- 8.64. An Ecology Appraisal was submitted in support of the application and was found to be satisfactory by LCC (Ecology). No evidence of protected species was noted on site and the site was generally considered to have a low potential to support protected species.
- 8.65. The proposed development provides opportunities for ecological enhancement. The existing boundary hedgerows are being retained and buffered by landscaping, shown on the Development Framework Plans, LCC (Ecology) recommend that the final layout submitted as Reserved Matters, follows this principle. In addition to this, LCC (Ecology) welcome the public open space to the east, containing SUDS which they recommend is designed to contain some water all through the year, the planting shown in this area should be comprised of native species and there is opportunity for grassland and wildflower planting. It is considered reasonable to require these details as part of the landscaping Reserved Matters.
- 8.66. The tree survey and retention plan provided with the application show that the existing hedgerows and trees are to be retained. Only three trees are proposed to be removed to accommodate the access to the site. This plan also shows how the proposed footpath that circles the site falls outside of the root protection zone of the trees other than in two identified areas, the plans state this will be a 'minimal dig area' however, the details of this and the tree protection method are set out in the submitted tree survey, it is reasonable to condition that the development is carried out in accordance with these recommendations. This is especially pertinent as some trees to the north of the site that align the boundary are contained within TPO reference 9300002/TPORD.
- 8.67. LCC (Ecology) recommend that to ensure that no protected species have moved on to the site, that if works have not commenced before January 2021 that further surveys will be required. This is considered reasonable and therefore should form a condition of the application.
- 8.68. Overall, the impact of the proposed development on protected species is accordance with Policy DM6 of the SADMP DPD and the general principles of the NPPF.

Pollution

- 8.69. Policy DM7 of the SADMP seeks to ensure that adverse impacts from pollution are prevented, this include impacts from noise, land contamination and light.
- 8.70. HBBC Environmental Health has identified that there is some historic use as landfill and therefore appropriate investigation is required. A desk based assessment was submitted with the application which recommends an intrusive investigation in to land contamination. Further to this, HBBC (Pollution) stated that potential for contamination from chemicals associated with farming were not identified by the desk based study and so further assessment of this is required. An amended survey was submitted, however, HBBC (Pollution) state that the requested conditions are still necessary to ensure the safe development of the site.
- 8.71. HBBC (Pollution) recommend conditions requiring the details of a written scheme of investigation to deal with land contamination, it is considered that these conditions are reasonable.
- 8.72. The development is therefore in accordance with Policy DM7 of the SADMP.

Archaeology

- 8.73. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate

desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.

- 8.74. An archaeological desk-based assessment was submitted with the application and the initial response from LCC was that the site had potential to include heritage assets and therefore be of archaeological interest. Therefore the application was required to complete a geophysical survey of the site. This was completed and the archaeology survey updated, LCC (Archaeology) responded recommending that should the current application be approved, this should be subject to conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording. This is in the context of the completed geophysical survey indicating limited evidence of archaeologically significant anomalies, additionally the absence of former ridge and furrow cultivation, suggests the site has been detrimentally affected by modern agriculture. It is therefore likely that surviving archaeological deposits, including feature typically not detected by geophysical survey, whilst still potentially present, are unlikely to be of such quality or significance to represent an obstacle to the proposals. The suggested conditions are therefore considered to be reasonable and necessary.

8.75. Infrastructure Contributions

- 8.76. 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.
- 8.77. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm 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.

Play and Open Space

- 8.78. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016, updates these standards and also identifies the costs for off-site and on-site contributions. In line with the up to date standards identified in the 2016 study the table below identified the requirements for open space, which is provided on site and what would be the requirements off site.

	Policy Requirement per dwelling based on 2.4 people per dwelling using CENSUS average	Requirement of open space for the proposed development of 80 dwellings (square metres)	Provided on site (square Meters)	Remaining requirement to be provided off site
Equipped Children's Play Space	3.6	288	407	0
Casual/Informal Play Spaces	16.8	1344	1408	0

Outdoor Sports Provision	38.4	3072	0	3072
Accessibility Natural Green Space	40	3200	4021	0

- 8.79. The nearest off site public open space is DESNEW1 is casual informal play space and incidental amenity green space, with a score of 72% however is greater than 300m from the application site. There is no open space containing equipped play within 400m of the application site.
- 8.80. It is evident that the proposed scheme is providing policy compliant on site POS for all elements other than for outdoor sport provision, where an off site contribution would be necessary, this is acceptable for a site of this size. Sport in Desford were contacted and confirmed that there is still a need within Desford for contributions towards outdoor sport and were able to identify projects that required funding, these specifically related to the existing tennis courts. Therefore, this off site request is justified.
- 8.81. To ensure this development provides sufficient open space in accordance with Policy 19 of the Core Strategy this contribution is considered necessary and directly related and fairly and reasonably related in scale and kind to the development proposed and therefore meets the CIL tests. The monetary contributions are set out below.

	On site maintenance (20 years)	Off site provision	Off site maintenance (10 years)	Total
Equipped Children's Play Space	£71,469.20	/	/	£71,469.20
Casual/Informal Play Spaces	£15,206.40	/	/	£15,206.40
Outdoor Sports Provision	/	£27,801.60	£13,209.60	£41,011.20
Accessibility Natural Green Space	£57,098.20	/		£57,098.20
			Overall Total	£184,785.0

- 8.82. As this is an outline application contributions would be required based on the amount of housing provided. As the application is submitted in outline format the formula in The Open Space and Recreation Study (2016) can be used to calculate the contribution required as a percentage for each unit provided.

Highways

- 8.83. LCC (Highways) have requested a number of contributions to satisfactorily mitigate the impact of the proposed development on the local highway network and to promote and encourage sustainable travel these include; Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area. These can be provided through Leicestershire County Council at a cost of £52.85 per pack. Six month bus passes, two per dwelling (two application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from

first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £360.00 per pass. It is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate). A Residential Travel Plan monitoring fee of £6,000 for Leicestershire County Council's Travel Plan Monitoring System. These contributions are considered to be CIL compliant.

- 8.84. A contribution of £138,097 has also been sought towards improvements to the A47 / B582 Desford Road junction which was demonstrated to be operating above capacity already being exacerbated by the proposal. However, LCC Highways have confirmed that there is a pooling issue. The s.106 regulations only allow contributions towards a single project to be made 5 times, contributions towards this junction have been made towards this junction in excess of this. The Highways authority has confirmed that they will seek these improvements through s.278 of the Highways Act to mitigate the impact of this development.
- 8.85. The highways section of a legal agreement should also include the provision of pedestrian links from the site across Barns Way to connect in to the existing footpath network.

West Leicestershire CCG

- 8.86. West Leicestershire CCG state that the development is likely to generate an increase in population of 192 patients and have calculated the additional demands this is likely to place on local GP practices, the identified practices are Desford Surgery and Ratby Surgery. Desford is recognised as having limited capacity to expand its services and for this reason it is felt that it is appropriate to therefore support Ratby Surgery as well. S.106 contributions are sought for internal upgrades to Desford Surgery to create multi functional consulting rooms to improve efficiency and patient flow allowing for a greater range of services available. The contribution sought towards Ratby is for a new building, the practice has already purchased land and this would help towards the capital fund of new premises to serve the local area. The request totals £51,840.00.
- 8.87. This request is considered to be CIL compliant and is necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 8.88. University Hospitals of Leicester NHS Trust
- 8.89. A contribution of £40,235.00 is sought towards to gap in funding created by each potential patient from this development in respect of A&E and planned care.
- 8.90. LCC Developer Contributions
- 8.91. Two contributions are requested towards Civic Amenity (£3,962.00) and Library Services (£2,410) at Desford Library. In this instance it is considered that these requests are CIL compliant, the library is within Desford in close proximity to the site and it is reasonable to expect additional demand on its services, moreover, the contribution towards Barwell tip are considered to reasonably relate in scale and kind to the proposed development.
- 8.92. The Applicant has confirmed that the development can viably support the above listed S106 contributions along with the provision of 40% affordable housing on site.

Other issues

- 8.93. There are no Public Rights of Way affected by the proposal
- 8.94. The site is not within an area recorded to require a Coal Authority mining report, therefore, the risk from coal mining is considered to be negligible.

- 8.95. HBBC (Waste) has recommended a condition requiring adequate provision for waste and recycling storage and collection.

9. Planning Balance

- 9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 9.3. The proposal would be in conflict with Policy DM4 of the SADMP. This policy is in accordance with the Framework and has significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the character of the area and so there is some conflict with Policy DM10 of the SADMP.
- 9.4. The emerging DNP does not form part of the adopted Development Plan as it has yet to be made. Nevertheless, it is accepted that the bringing forward of development that is not plan-led is harmful in the sense that it removes from the local community the ability to shape its surroundings and environment. The application site is the preferred housing site in the emerging DNP. However, the consultation responses received to the DNP do not appear to demonstrate a preferred site for housing from the Desford community.
- 9.5. Weighed against the conflict with the Development Plan it is the Government's commitment to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of up to 80 houses (including up to 32 affordable homes). These additional houses and affordable housing have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 9.6. Paragraph 11 of the NPPF states that the harm identified should be significant and demonstrably out weigh the benefits of the scheme. It is therefore important to identify the benefits of the scheme. Following the three strands of sustainability the benefits are broken down into economic, social and environmental:
- 9.7. The proposal would result in economic benefits through the construction of the scheme through creation of jobs and construction spend, albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services.
- 9.8. As discussed the proposal would deliver 80 dwellings, of which 40% would be affordable. This would result in a significant social benefit to the area and also to the borough. The proposal would also involve the provision of an area of public open space and an equipped play area which there is a demonstrated need in Desford. The equipped play area is larger than that required by Policy 19 of the Core Strategy and will be available to the residents of Desford, this would therefore provide a benefit to the wider area.
- 9.9. Some environmental benefits would be provided such as additional planting through landscaping in the provision of open space. Additionally there would be some benefit for biodiversity associated with the reinforcement and new planting of

hedgerow and trees around the site and the provision of a permanent pond feature contained within the SUDS.

- 9.10. It has been concluded that there would be moderate harm to the character of the area caused by the visual impact of built development in this location would have on the open character of the countryside that in this location which provides a rural setting to Desford. The proposal would extend development beyond the settlement boundary of Desford and it is considered that the proposal would result in harm to the character and appearance of the area and would therefore conflict with Policy DM4 and DM10 of the SADMP DPD.
- 9.11. Whilst there has been harm identified to the character and the appearance of the countryside it is considered on balance that the harm does not significantly and demonstrably outweigh the identified benefits of the scheme. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations do justify making a decision other than in accordance with the development plan.

10. Equality Implications

- 10.1. Where No Known Implications Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 10.3. There are no known equality implications arising directly from this development.
- 10.4. 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).

11. Conclusion

- 11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 11.2. The proposal, subject to conditions, is in accordance with Core Strategy Policies 15, 16 and 19 and Policies DM3, DM6, DM7, DM17 and DM18 of the SADMP.
- 11.3. An assessment against the historic assets within the vicinity finds that the proposal would have a neutral impact upon the historic environment of Desford and therefore accords with DM11 and DM12 of the SADMP, section 16 of the NPPF and the

statutory duties of sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and paragraphs 189 and 190 of the NPPF.

- 11.4. The housing policies in the adopted Core Strategy and the adopted SADMP are be out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 11.5. The proposal would be in conflict with Policy DM4 of the SADMP. This policy is in accordance with the Framework and has significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the character of the area and so there is some conflict with Policy DM10 of the SADMP.
- 11.6. Weighed against the conflict with the Development Plan is the Government's commitment to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of up to 80 houses (including up to 32 affordable homes). These additional houses and affordable housing have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 11.7. As such, although there is clear conflict with strategic Policy DM4 of the adopted SADMP, there has only been moderate conflict found with strategic Policy DM10 of the SADMP.
- 11.8. On balance it is considered that the harm identified to the character and appearance of the countryside from new residential development would not significantly and demonstrably outweigh the identified benefits of the scheme. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations do justify making a decision other than in accordance with the development plan. The application is therefore recommended for approval subject to the conditions and planning obligations listed above.

12. Recommendation

12.1. Grant planning permission subject to

- The prior completion of a S106 agreement to secure the following obligations:
 - £640,098.00 towards Education
 - £184,785.00 towards to provision and maintenance of Play and Open Space
 - 40% Affordable Housing provision on-site with a mix of 75% social or affordable rent and 25% intermediate tenure and a mix of 66% of the rented accommodation to be 2 bedroom houses and a remainder as a mix of 1 bedroom accommodation. The intermediate tenure should be a mix of 2 and 3 bedroom houses.
 - £51,840.00 Health Care Provision at Desford and Ratby surgeries.
 - Suitable Highways Mitigation including
 - Travel Packs; at a cost of £52.85 per pack
 - Six month bus passes, two per dwelling £360.00 per pass
 - Residential Travel Plan monitoring fee of £6,000
 - Travel Plan Co-ordinator
 - £3962.00 towards Civic Amenity at Barwell
 - £2,410 for Library Services at Desford Library.
 - Provision of footpath links across Barns Way

- Planning conditions outlined at the end of this report.

12.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

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

12.4. **Conditions and Reasons**

1. 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 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;
- b) The scale of each building proposed in relation to its surroundings;
- c) The appearance of the development including the aspects of a building or place that determine the visual impression it makes;
- d) 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.

The development shall be implemented in accordance with the approved details.

Reason: This planning permission is submitted in outline form only and the reserved matters are required to be submitted in accordance with the requirements of Part 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

2. Application for the approval of reserved matters shall be made within 18 months from the date of this permission and the development shall be begun not later than one year from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure that the development is delivered in a timely manner.

3. The development hereby permitted shall be carried out in accordance with the approved Location Plan –DE315_004 Rev A; received by the local planning authority on 6 February 2019; Proposed Access junction layout and offsite facilities – ADC1902-DR-001 P7 received by the Local Planning Authority on 28 March 2019.

Reason: Identification of the approved plans is necessary to confirm the extent of the development and the location and form of the approved access.

4. No more than 80 dwellings shall be constructed on the site including no residential curtilage within 5 metres of any of the boundary hedgerows.

Reason: To ensure a satisfactory impact of the development and to enhance the ecological value of the proposed development in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD.

5. Any reserved matters application shall be accompanied by a scheme which details the proposed housing mix for the development which should be in accordance with the Council’s adopted Development Plan and the housing needs of the area. The development shall then be completed in accordance with the approved details.

Reason: To ensure an appropriate housing mix to meet the housing needs of the locality is provided in accordance with Policy 16 of the Core Strategy 2009

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

Reason: To ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with Policy DM7 of the SADMP 2016.

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

Reason: To ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with Policy DM7 of the SADMP 2016.

8. No development shall commence on site until a Biodiversity Management Plan for the site which shall set out the site-wide strategy for protecting and enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the development is completed, has been submitted to the local planning authority for their approval in writing. The submitted plan shall include all retained and created habitats including SUDs and all landscaping to informal play space and natural open space should be comprised of native species wildflower grassland. Development shall be implemented and thereafter maintained in accordance with the approved Management Plan.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

9. No development shall commence on site until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority and the approved details shall then remain in force throughout the construction period. 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 and a procedure for the investigation of complaints. Site preparation and construction hours shall be limited to between 0730 to 1800 Monday to Friday and 0800 to 1300 on Saturdays. There shall be no working on Sundays and Bank Holidays.

Reason: To ensure the protection of neighbouring residential amenity during construction to accord with Policies DM7 and DM17 of the SADMP.

10. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

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

11. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority.

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

12. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.

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

13. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority.

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

14. No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy in accordance with

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

15. In the event that development is not commenced by January 2021, no development shall take place until details of further surveys to establish the presence of protected species which could be affected by the proposed development, and a mitigation/compensation scheme if required, have been submitted to and approved in writing by the local planning authority. Mitigation/compensation works shall be carried out in accordance with the approved scheme.

Reason: To ensure that any delays in construction is preceded by more up-to-date survey work to protect any protected species that could be affected by the proposal in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD.

16. No part of the development hereby permitted shall be occupied until such time as the primary site access arrangements and offsite highway works generally shown on ADC drawing number ADC1902-DR-001 Rev. P7 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway in a slow and controlled manner, to mitigate the impact of the development, in the interests of general highway safety and in accordance with in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.the National Planning Policy Framework (2019).

17. Notwithstanding the submitted plans, the gated farm access shown on ADC drawing number ADC1902-DR-001 Rev. P7 shall have a width of a minimum of six metres for a distance of at least ten metres behind the highway boundary and shall be surfaced in a bound material. No access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of ten metres of the highway boundary, nor shall any be erected within a distance of ten metres of the highway boundary unless hung to open away from the highway. The access once provided shall be so maintained at all times.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.), to enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway, in the interests of general highway safety and in accordance with in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

18. No part of the development hereby permitted shall be occupied until such time as vehicular and pedestrian visibility splays shown on ADC drawing number ADC1902-DR-001 Rev. P7 have been provided at the site accesses. 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 pedestrian safety, in the interests of general highway safety, and in accordance with in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

19. Prior to the occupation of any of the dwellinghouses hereby approved, a scheme which makes adequate provision for waste and recycling storage of containers and collection across the site has been submitted to and approved in writing by the local planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The scheme shall then be implemented in accordance with the approved details.

Reason: To ensure that collection points for domestic recycling, garden waste and refuse is made from the adopted highway boundary in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

20. Prior to the submission of any reserved matters application, an archaeological mitigation programme detailed within a Written Scheme of Investigation and informed by an initial stage of exploratory trial trenching, shall be prepared by the applicant and submitted to, and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: In the interest of recording the archaeological value of the site in accordance with policy DM13 of the SADMP DPD (2016).

21. No development 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 SADMP DPD (2016).

22. No development shall take place on site other than in accordance with the specifications and recommendations set out in the Tree Constraints, Impact Assessment and Tree Protection Method Statement- B. J. Unwin Forestry Consultancy received by the Local Planning Authority on 06th February 2019.

Reason: To ensure the trees on site are to be retained and adequately protected during and after construction in the interest of the visual amenity of the area and biodiversity in accordance with Policies DM6 of the SADMP DPD (2016).

23. 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 interest of visual amenity in accordance with Policy DM10 of the SADMP DPD (2016).

12.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Removal of any vegetation can only take place outside of the bird nesting season
3. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protect both the public sewer and the building. Should you require any further information please contact Severn Trent on Planning.APEast@severntrent.co.uk
4. The surface water drainage scheme required by condition 10 shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations. Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change storm events. Evidence should be provided demonstrating that the outfall ditch (including the 150mm culvert) are operational and sufficient to receive existing flows and the surface water from the proposed development.
5. Details within the maintenance scheme of the drainage strategy 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.
6. Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual householder ownership.
7. The results of infiltration testing required by condition 13 should conform to BRE Digest 365 Soakaway Design. The LLFA would accept the proposal of an alternative drainage strategy that could be used should infiltration results support an alternative approach.
8. The Written Scheme of Investigation required by condition 20 must be prepared by an archaeological contractor acceptable to the Planning

Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

9. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
10. Noting that internal layout is not a matter to be considered at this outline stage, the applicant is strongly encouraged by the Local Highways Authority to submit a plan at the reserved matters stage which demonstrates that the continued use of this farm access will not result in conflicts with residential traffic using the internal road network.
11. 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>
12. Any works to highway trees will require separate consent from Leicestershire County Council as Local Highway Authority (telephone 0116 305 0001). Where trees are proposed to be removed, appropriate replacements will be sought at the cost of the applicant.

APPENDIX B

ITEM 08

19/00149/OUT

Rosconn Strategic Land

Site:- Land Opposite Bosworth College, Leicester Lane, Desford

Proposal:- Residential development of up to 80 dwellings and associated works (Outline- access only)

Appraisal:-

A contribution request was made by University Hospitals Leicester NHS Trust (UHL) for £40,235.00 towards the gap in the funding created by each potential patient from the development in respect of A&E and planned care. The evidence provided by the UHL is not sufficiently robust to conclude that the CIL Regulation 122 test can be satisfied. Therefore the contribution is not considered to be CIL compliant and will not be sought for this development.

Recommendation:-

The recommendation remains to grant planning permission subject to the details outlined in the original Planning Committee Report.