

**Planning Committee 20 August 2019  
Report of the Planning Manager**

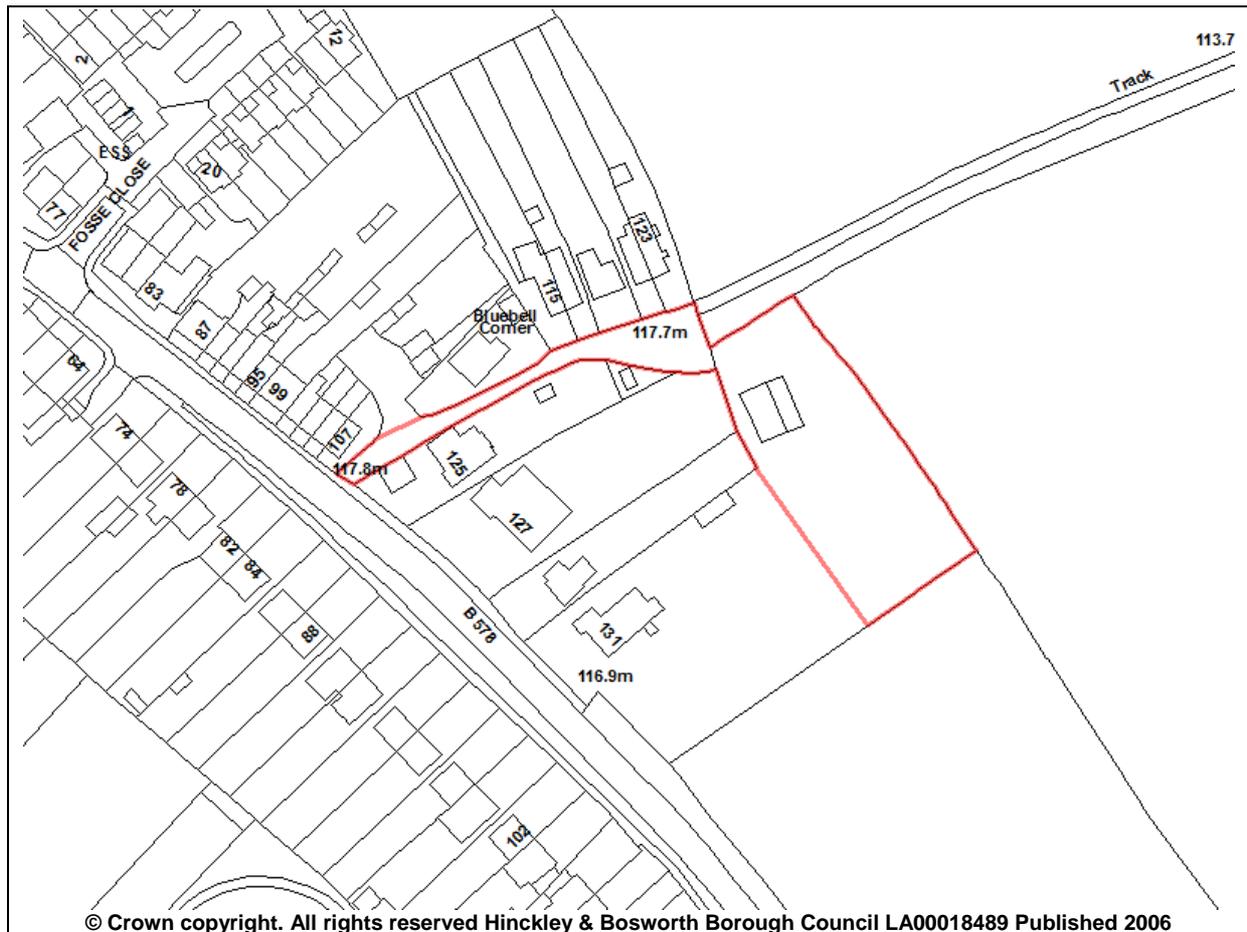


Hinckley & Bosworth  
Borough Council

**Planning Ref:** 19/00573/FUL  
**Applicant:** Mr Thomas Knapp  
**Ward:** Burbage Sketchley & Stretton

**Site:** Land Rear Of 125 - 131 Lutterworth Road Burbage

**Proposal:** Conversion of existing building to residential (C3) use and single storey extension to side



**1. Recommendations**

**1.1. Grant planning permission** subject to

- Planning conditions outlined at the end of this report.

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

**2. Planning Application Description**

**2.1.** This application seeks full planning permission for the conversion of an existing redundant building to a residential dwelling, including a single storey extension to the side, replacing an existing lean to on land rear of 125-131 Lutterworth Road, Burbage.

- 2.2. Following a previous permission, the existing property (no. 131) has been demolished and the building and the application site subdivided from the new dwellings erected on the land facing onto Lutterworth Road. It is therefore considered that the application building is no longer tied to the residential property and the land and the building has no defined use.
- 2.3. The proposal involves the conversion of the existing brick built section to a residential dwelling, including the insertion of new window and door openings and re-roofing with mock zinc profile roofing. The proposal also involves the demolition of an existing lean to section and replacement with a brick built extension, on the same footprint. The proposal does not exceed the parameters of the exiting structure on site. A structural survey has been submitted in support of the application.

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

- 3.1. The application site consists of a parcel of land located to the rear of nos.125 to 131 Lutterworth Road. Access to the site is from an existing private access track located between nos. 107 and 125 Lutterworth Road.
- 3.2. The site is located adjacent to but outside of the settlement boundary of Burbage and as such, within land designated as countryside.
- 3.3. A gate is located at the entrance to the site with a private right of way running across the front of the site providing access to open fields to the east. The building itself currently comprises a single storey brick built building with a lean to section constructed from metal cladding and with timber doors which provides a storage area. The building has an existing asbestos roof.
- 3.4. The application building is not highly visible from the surrounding area, given the siting immediately behind a dense hedgerow which separates the application site from the rear gardens of no. 127 and 129 Lutterworth Road.
- 3.5. Two new dwellings have been constructed on Lutterworth Road to the south west of the site, permission exists for a third to be erected.

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

17/01124/FUL	Demolition of existing dwelling and erection of 3 new dwellings and associated access	Permission	21.12.2017
18/00643/FUL	Change of use of building to light industrial (B1c) and raising of roof and extension to existing building	Withdrawn	16.11.2018
18/00953/FUL	Erection of detached dwelling and new vehicular access	Withdrawn	21.11.2018
18/01278/FUL	Erection of detached dwelling and a new vehicular access	Permission	12.06.2019

19/00363/CONDIT	Variation of conditions 2, 4, 5, 7 and 8 of planning permission 17/01124/FUL to refer to an amended site plan with relocated access and amended landscaping (retrospective)	Permission	23.05.2019
18/00300/FUL	Demolition of existing workshop and erection of a new dwelling	Withdrawn	01.06.2018
18/00643/FUL	Change of use of building to light industrial (B1c) and raising of roof and extension to existing building	Withdrawn	16.11.2018

## 5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site
- 5.2. Objections have been received from four separate addresses raising the following concerns:
- 1) Burbage is over developed and services are insufficient, with the schools and doctors being over subscribed
  - 2) Congestion is an issue of Lutterworth Road
  - 3) Loss of open space and countryside
  - 4) Access is narrow, un-adopted and not maintained
  - 5) Inadequate visibility splays
  - 6) Parking provision within the site is limited
  - 7) Would set a precedent for further development on the site
  - 8) The site is outside of the settlement boundary

## 6. Consultation

- 6.1. Burbage Parish Council object to the proposal as it is outside of the settlement boundary and within countryside, the access road is unsuitable and should meet highway standards.
- 6.2. No objections from the following:  
 HBBC Waste  
 HBBC Drainage  
 HBBC Environmental Health  
 LCC Ecology
- 6.3. LCC Highways have no objection subject to conditions
- 6.4. Notes to applicant provided by Cadent Gas.

## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 4: Development in Burbage

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design
- Policy DM15: Redundant Rural Buildings
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

### 7.3. National Planning Policies and Guidance

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

### 7.4. Other relevant guidance

- Emerging Burbage Neighbourhood Plan (2018)

## **8. Appraisal**

### 8.1. Key Issues

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

#### Assessment against strategic planning policies

8.2. 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.

8.3. The development plan in this instance consists of the Core Strategy (2009) 2006-2026 and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (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. Policy 4 of the Core Strategy identifies Burbage as an important urban area where development would be focused to the north to support the Hinckley sub regional centre.

8.5. Policy 4 provides the policy framework for development in Burbage. The first criterion for Burbage seeks the provision of a minimum of 295 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 MHCLG. Therefore, the application should be determined against 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. This 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 Burbage and is identified as countryside on the Borough Wide Policies Map and therefore policy DM4 should be applied. Policy DM4 of the adopted SADMP states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. The policy goes on to list a number of categories of development that would be considered sustainable in the countryside subject to meeting a number of other criteria.
- 8.9. Policy DM4 states that where proposals in the countryside involve the change of use, re-use or extension of existing buildings, development is sustainable if it leads to the enhancement of the immediate setting. This issue will need to be carefully weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case.
- 8.10. Policy DM15 of the SADMP goes beyond Policy DM4 and provides criteria against which proposals for development outside settlement boundaries for the re-use and/or adaption of redundant or disused rural buildings should be assessed in order to be supported. Policy DM15 states that developments will be supported where:
  - a) *The applicant demonstrates the building is no longer viable in its current use; and*
  - b) *The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and*
  - c) *Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and*
  - d) *The proposed development accords with Policy DM10: Development and Design and relevant design guidance, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets.*
- 8.11. The site, although outside of the settlement boundary is adjacent to it, Burbage is considered to be a sustainable location with residents having access to amenities and sustainable transport options. The site has been subject to several planning applications, a number of which have been withdrawn. However, the Council is aware that the site once formed part of a residential curtilage which the site is now severed from. Therefore no lawful use has been established and thus, the site is considered to have nil use. The planning history of the site demonstrates that the building is not viable in its current use with the Council previously accepting that the site has nil use. The structural survey confirms that the building is capable of conversion without substantial adaption. The proposal does include the replacement of an asbestos roof, however, from the site visit it was evident that there are existing roof trusses that could support a new roof treatment, the structural survey confirms this. However, the Council questioned the capability of conversion of the lean to element, albeit the structural survey states it is structurally sound. There are no foundations and the roof has been removed and replaced with boards. Therefore, the proposal has been amended so that the lean to element is described as a replacement and therefore considered to be an extension. This amendment would not materially change the impacts upon surrounding properties or the countryside from the original description and proposal and therefore no re-consultation was necessary. The proposed extension replaces an existing structure

and the overall proposal does not increase the scale or mass of the building as existing.

- 8.12. A full assessment of the design and impact upon the character of the area and countryside is made later in the report. Therefore, in line with the above, subject to all other material considerations being satisfactorily addressed the re-use and proportionate extension of an existing redundant building is in principle acceptable in accordance with Policies DM1, DM4 and DM15 of the SADMP (2016) DPD.
- 8.13. The emerging Burbage Neighbourhood Plan is still in development, not yet having been submitted to the Local Planning Authority for comment prior to Examination by an Inspector and subsequent referendum. Therefore; only very limited weight can be afforded to this document at this time.

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

- 8.14. Policy DM4 of the adopted SADMP requires that development in the countryside does not have a significant adverse effect on the open character or appearance of the surrounding landscape and countryside.
- 8.15. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally.
- 8.16. Policy DM15 of the SADMP seeks to ensure that any proposed extensions or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage and that the building leads to an enhancement of the immediate setting.
- 8.17. The application site comprises a single storey detached building located to the rear of nos. 125-131 Lutterworth Road. Lutterworth Road is made up of predominantly ribbon development of dwellings with a variety of scale and designs. The application site was once the residential curtilage of a detached bungalow albeit outside of the settlement boundary. The bungalow has since been demolished and replaced with two, two storey dwellings. The site is currently enclosed by mature hedgerows, subdividing it from the agricultural fields beyond and housing to the west. The site is not highly visible and the existing building can only be viewed from within or immediately adjacent to the site.
- 8.18. The submitted structural report identifies that the main walls of the building are in a sound condition and in a good state of repair. However the existing lean to metal sheeting side extension is not considered suitable for conversion by the Council, the existing roof to the main part of the building also needs to be replaced. Overall, the site is in a state of disrepair and does not positively contribute to the character of the area and countryside.
- 8.19. Therefore the proposed works including the removal of the existing asbestos roof and the demolition of the existing metal cladding lean to and replacement extension of the same mass and proportions is considered to have a negligible impact upon the character of the area. The building is proposed to be roofed in mock zinc cladding and the external walls rendered with white through coloured render. The proposal uses all existing openings, other than in the eastern elevation which introduces three new window openings, and the north and south elevations replace garage style doors to the lean to with windows. Although the resulting appearance is not one of a traditional rural building, its close proximity to surrounding urban features, the improvement on its current state and the proportionate extension to the existing built form, do not warrant refusal of the application as there is no

significant adverse effect on the open character or appearance of the surrounding countryside. The proposed use of materials is acceptable and the resulting design, layout, scale and mass are not overtly different to the existing built form present on the site.

- 8.20. The proposal does introduce additional hardstanding in to the countryside, however, as Policy DM15 is supportive in principle of the reuse of existing buildings it is reasonable to expect some additional hard landscaping. Due to the orientation of the proposed conversion the additional parking area required off the access, limits the extent the hard surfacing encroaches in to the countryside and is the closest point to the existing urban edge, the proposed plans detail the surfacing to be stone chippings which is considered to be appropriate in this location.
- 8.21. The submitted layout plan also details the proposed boundary treatments surrounding the site, which include the retention of the existing hedgerow and post and rail fencing, all of which is considered appropriate.
- 8.22. It is considered reasonable and necessary to remove Permitted Development rights via a condition, from the proposed residential dwelling and its associated curtilage. This would prevent further built form or residential paraphernalia from eroding the openness of the Countryside without assessment of its appropriateness by the Council.
- 8.23. Criteria ii) to v) of Policy DM4 are not relevant as the proposal would not undermine the perceived separation between settlements, does not exacerbate ribbon development and is not located within a green wedge or the National Forest. As such, it is considered the proposal would not have an adverse impact upon the open character or appearance of the countryside or surrounding area in accordance with Policies DM4, DM10 and DM15.

#### Impact upon neighbouring residential amenity

- 8.24. Policy DM10 of the SADMP state that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.25. The building is currently located at the far end of the rear gardens of properties on Lutterworth Road.
- 8.26. No. 123 Lutterworth Road is located over 30 metres to the north west of the site and separated by the access track. As such, there would be no adverse impact upon the occupiers of this property by way of an overbearing nature or loss of privacy.
- 8.27. Given the significant distance (over 40 metres) to the dwellings to the south west, the siting away from the nearest private amenity space and the extensive length of the gardens, the conversion and single storey extension to the side would not result in any adverse impacts upon the occupiers of nos. 125-131 Lutterworth Road in respect of overbearing nature or loss of privacy. In addition, a mature hedgerow separates the site from these properties.
- 8.28. Objections have raised concern over the use of the access, however, the trips associated with a single residential dwelling is considered to add only a negligible amount of additional movement along the existing access, which is also used by other residential properties.
- 8.29. The existing building is adjacent to the settlement boundary, in a predominantly residential area. The associated residential curtilage proposed provides a large private amenity area for occupiers. There would be a right of way to the front of the property to allow agricultural vehicles access to the fields beyond, however, the existing building is separated from this right of way by a distance of approximately

18m. Therefore, the conversion of this building to a residential use would not present any concerns for the residential amenity of potential future occupiers.

- 8.30. Therefore, the proposal is not considered to have an adverse effect upon the residential amenity of surrounding residential properties, or the future occupiers of the proposal in accordance with Policy DM10 of the SADMP (2016) DPD.

Impact upon highway safety

- 8.31. Policies DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.32. The application site is accessed by way of a private un-adopted road which is not publicly maintained. It is considered that approximately 10 residential properties use this private track, as well as the agricultural access to the fields to the east. The site is served by this road until it meets Lutterworth Road. Parking would be provided to the front of the building with associated turning space allowing vehicles to leave the site in a forward gear.
- 8.33. LCC Highways consider that the impact of the development on highway safety would not be unacceptable and the impact on the road network would not be severe, it is considered that the use of the site and access for a single residential property is unlikely to intensify the use of the access that would warrant refusal. LCC Highways require a condition for the parking and turning area to be provided in accordance with the provided plans, this is considered to be a reasonable condition.
- 8.34. Concerns have arisen regarding inadequate visibility onto Lutterworth Road. Although the site access falls short of current highway standards, the proposed development would not alter the existing access arrangements. LCC Highways consider the proposal unlikely to alter the existing situation.
- 8.35. All disputes in respect of rights of access along this road are civil matters between the applicant and the owners of the road.
- 8.36. The development is therefore in accordance with Policies DM17 and DM18 of the SADMP.

Other Matters

- 8.37. HBBC (Pollution) requested a condition relating to bonfires, requesting that no bonfires shall be burnt at the site at any time. However, this is not considered reasonable, necessary or enforceable and is not a planning issue.
- 8.38. HBBC (Waste) requested a condition for details of waste and recycling storage, however, bin storage is detailed on the plans already and is deemed to be acceptable. Bin collection is anticipated from the adopted highway, although this is not ideal due to the distance, there are already other residential properties along this access that have residential waste collected from the access point.

**9. Equality Implications**

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

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

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

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

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

9.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

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

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

## **10. Conclusion**

10.1. Policy DM1 of the SADMP states that development proposals that accord with the policies in the development plan will be approved without delay unless material considerations indicate otherwise.

10.2. The proposal seeks the conversion and extension of an existing redundant building, situated within the Countryside. The building is considered to be structurally sound in part with the proposed extension replacing an existing lean to. The proposal is considered to have a negligible impact upon the character of the area and the openness of the countryside and has been found to have no adverse impacts upon the residential amenity of surrounding properties. The use of the existing un-adopted highway access is not considered to have severe detriment to highway safety and appropriate parking and turning areas are provided within the development site. Therefore the proposal is considered to be in accordance with Policy DM1, DM4, DM10, DM15, DM17 and DM18 of the SADMP DPD.

## **11. Recommendation**

11.1. **Grant planning permission** subject to

- Planning conditions outlined at the end of this report.

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

11.3. **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

General Arrangement ref: 4614/01 rev.A, received 25 July 2019.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with

GBa&e drawing number 4614/01. Thereafter the onsite parking provision shall be so maintained in perpetuity.

**Reason:** To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policy DM17 and 18 of the Site Allocations and Development Management Policies DPD (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

4. 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 in writing 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 the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

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

6. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A to H (inclusive); of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

**Reason:** To safeguard the character and openness of the countryside in accordance with Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document (2016).

#### 11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the

public highway and therefore you should take every effort to prevent this occurring.

3. The suitability of the ground for soakaways should be ascertained by using the test in B R E Digest No. 365 before development is commenced. The porosity test and soakaway design requires the approval of the Building Control Section. The soakaway must be constructed using concrete ring sections with a lift able cover or other approved materials to the satisfaction of the Local Authority.
4. Any access drives, parking and turning areas, paths and patios should be constructed in permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (see Environment Agency guidance on the permeable surfacing of front gardens).
5. In relation to condition 4, advice from Health and Environment Services can be viewed via the following web address: <http://www.hinkcley-bosworth.gov.uk/contaminatedsite> which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
6. Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easement of wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restriction should be obtained from the landowner in the first instance.
7. If any construction traffic is likely to cross a Cadent pipeline then the applicant must contact Cadent's plant protection Team to see if any protection measure are required. Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) tel: 0800 688 588.