

Planning Committee 12th December 2023
Report of the Head of Planning

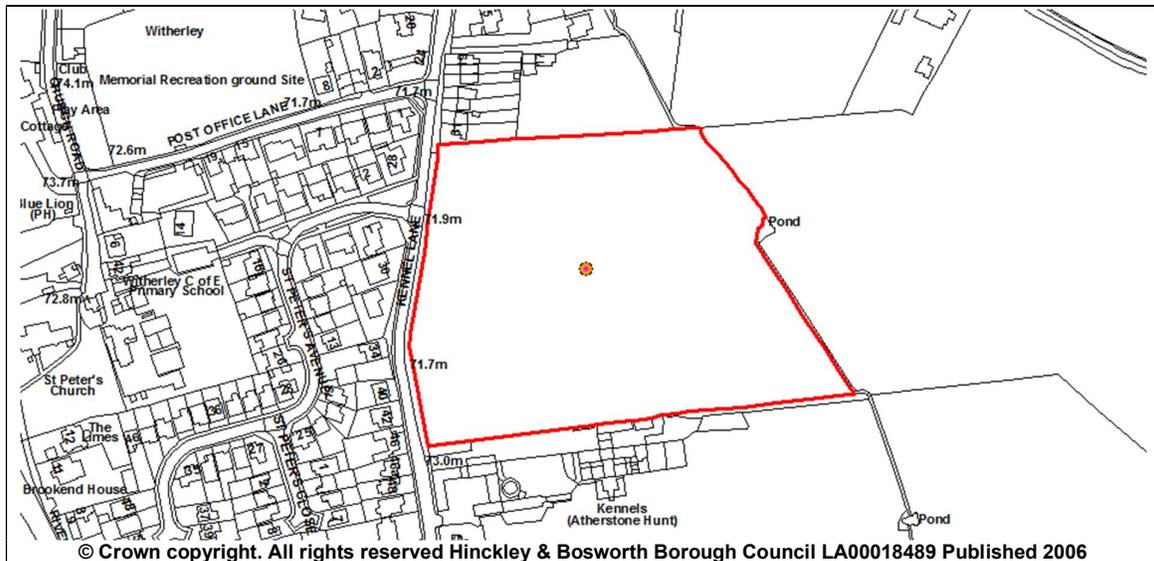


Hinckley & Bosworth
Borough Council

Planning Ref: 22/01190/OUT
Applicant: Hollins Strategic Land LLP
Ward: Twycross Sheepy & Witherley

Site: Land East of Kennel Lane, Witherley, Leicestershire

Proposal: Outline planning application for up to 50 residential dwellinghouses with access



1. Recommendations

1.1. That the application be approved subject to:

- Conditions outlined at the end of this report
- A S106 Agreement to secure the following:
 - Health contribution - £24, 153.60
 - Waste – Barwell RHWS - £2, 476.50
 - Libraries – Market Bosworth Library - £1, 509.88
 - Primary Education – Witherley Church of England Primary School – £220, 272.00
 - Secondary Education (11-16) – The Market Bosworth School- £149, 264.60
 - Post 16 Education – The Hinckley School- £31, 889.55
 - 40% Affordable Housing provision – up to 20 homes comprising 5 First Homes, 11 for affordable rent and 4 for shared ownership (with local connection criteria)
 - Travel Pack provision of £52.85 per dwelling - £2,642.50 (subject to final dwelling numbers)
 - Highway contribution for the improvements to the surrounding rights of way network (T27 and T28)- £9, 500

Financial contribution to cycle parking at Atherstone station?

Financial contribution to upgrade the Public Right of Way (PRoW) between Riverside Road (Atherstone) and Mill Lane (Witherley); (This is separate to the improvements to PRoW T28 and T27 outlined above)

Off site outdoor sports contribution - £17, 376

Off site outdoor sports maintenance contribution- £8, 256

On site equipped children's play space contribution- £32, 747.40

On site equipped children's play space maintenance contribution- £31, 608

On site casual/informal play spaces maintenance contribution- £9,072

On site natural green space maintenance contribution - £28, 400

On site open space to be managed by a Management Company

S106 legal and monitoring fees

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

2. Planning Application Description

- 2.1. The application seeks outline permission for the erection of up to 50 dwellings (including 40% affordable housing), informal and formal open space and associated infrastructure that includes vehicular access, landscaping and a sustainable drainage system (SuDS), with all matters reserved except for access.

- 2.2. A new access is proposed from Kennel Lane in the form of a priority-controlled T junction. The illustrative layout plan indicates the majority of trees and hedgerows on the boundaries of the site being retained except for breaks in the hedgerow along Kennel Lane to provide the pedestrian and vehicular access points. A new landscape buffer is proposed to the east of the site, indicative ecological enhancements/landscaping include new native hedges and trees, a seeded wild flower meadow and a habitat protection area. The masterplan also indicates general green buffers to the peripheries of the site.

- 2.3. A mix of natural and semi-natural greenspace and amenity space is proposed to the periphery of the site with an equipped children's play space in the form of a LEAP in the north eastern section of the site. Approximately 1.5ha of open space is indicative on the masterplan which exceeds open space requirements. Attenuation basins are indicated in the south east of the site.

- 2.4. The illustrative plans indicate the housing to be located to the western and central areas of the site with green space to the peripheries of the site. The masterplan indicates dwellings that are set back from but face on to Kennel Lane, with varying densities between 25-35 dwellings per hectare, with the lower density areas to the eastern edge of the site.

- 2.5. The proposed new access arrangements include footway/cycle links and highway improvements on Kennel Lane and the A5 which comprise the following works:

- A priority-controlled T junction access junction to the east of Kennel Lane (the main access into the site)
- The introduction of a 2m wide footpath along the east side of Kennel Lane

- An extension to the existing footpath along the west side of Kennel Lane connecting the existing footpath to the A5 footpath
 - Widening of Kennel Lane to ensure that Kennel Lane is at least 5.5 metres wide along its entire length (this would allow two HGVs to pass each other safely which cannot be provided at present)
 - Three pedestrian access points to Kennel Lane and a pedestrian link to Public Right of Way (PRoW) T28 located to the east of the site
 - Various uncontrolled crossing points with tactile paving at existing junctions on Kennel Lane
 - Two 'pedestrian crossing' warning signs to be located 180m from the existing pedestrian crossing on the A5
- 2.6. In addition the applicant has agreed to financial contributions towards the improvements of the surrounding PRoW network including PRoW T28 and T27 as well as the PRoW between Riverside Road (Atherstone) and Mill Lane (Witherley) and a financial contribution towards cycle parking at Atherstone train station.
- 2.7. The application is accompanied by the following reports and documents:
- Planning Statement
 - Design and Access Statement
 - Illustrative Masterplan Plan
 - Transport Assessment and Travel Plan
 - Phase 1 Geoenvironmental Site Assessment
 - Landscape and Visual Assessment
 - Heritage Assessment
 - Flood Risk Assessment
 - Drainage Strategy
 - Geophysical Report
 - Preliminary Ecological Appraisal
 - Biodiversity Net Gain Assessment

3. Description of the Site and Surrounding Area

- 3.1 The site comprises approximately of 3.2 hectares of land, made up largely of a single agricultural rectilinear field on the eastern edge of Witherley, which is identified as a Rural Village in the Council's Core Strategy. A triangular section of the adjacent field parcel to the east of the site is also included to provide a pedestrian link to the T28 PRoW which runs to the east of the site.
- 3.2 The site is bounded by Kennel Lane and existing properties to the west; further agricultural land to east and to the south, with some existing farm structures and Atherstone Hunt Kennels abutting the southern boundary. The site is also partially bounded by existing residential properties and their gardens to the north.
- 3.3 The proposed site access is within 250m from Witherley primary school, St Peters church and the Blue Lion pub which all lie to the west of the site. The nearest bus

stops are located on Hall Lane to the north west, approximately a 500m walk from the propose site entrance.

- 3.4 Witherley Brook runs along the eastern boundary of the site which has onward connectivity to the River Anker. Whilst most of the site lies within Flood Zone 1 (low risk of fluvial flooding), the north-east corner of the site is located in Flood Zone 2 and 3 (medium to high risk). The site is also at risk of surface water flooding (low to high risk), again with the east of the site at higher risk.
- 3.5 The site is bordered on all four sides by a series of thick hedgerows with trees interspersed within the hedgerow, otherwise there are few landscape features within the site itself. The existing access to the site is from Kennel Lane via a set of agricultural gates in the north-western corner. The topography of the site is relatively flat and rises approximately 1.5m from the north east corner to the south west corner.

4. Relevant planning history

- 4.1. None relevant

5. Publicity

- 5.1. The application has been publicised by sending out letters to the occupiers of neighbouring properties. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. Objections have been received from 48 households, raising the following concerns and points:

Principle of development:

- The proposal would result in unsustainable new residential development in the countryside outside the settlement boundary (contrary to DM4 and CS12)
- The proposed development would be heavily reliant on the use of private cars for trips to shops, medical services, leisure facilities and work/secondary school as the immediate area has no such facilities. Therefore, the proposal is contrary to paragraph 79 of the NPPF which states that housing should be located where it will enhance or maintain the vitality of rural communities. Lack of facilities has been identified as an issue facing villages within the parish, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.
- The site is not allocated in the Witherley NP

Infrastructure:

- The proposal will impact local services ie schools, doctors, dentists, fire and rescue other emergency services, hospitals and, crucially, the village infrastructure. Some of these service providers are already overstretched and experiencing a shortage in availability to register new patients. Indeed, as it currently stands, the majority of the above mentioned services are generally provided from out with the borough ie North Warks. Therefore, there is a strong case that appropriate additional support funding for these services should be directed to that borough not Hinckley and Bosworth.
- There is poor public transport

Roads/Highways:

- The proposal would have a detrimental impact on the local road network and will increase traffic using Kennel Lane which is the main access into and out of Witherley
- There are safety issues at the junction of Kennel Lane with the A5. This is recognised by National Highways (formerly Highways England) in the SADMP and Regulation 19 Comments for the emerging NDP. Evidenced by CrashMap data.
- To the north of the village the narrow Rural Lanes (Mythe Lane and Atterton Lane) are frequently closed due to issues with fluvial and surface water flooding; the development would have an adverse effect increasing traffic using the lanes. The lanes are narrow, popular with walkers, horse riders and cyclists and there are no pavements.
- Concerns regarding the visibility at the proposed site entrance as it is on a bend
- The 2m footways along both sides of Kennel Lane suggest 'small town' design thinking inappropriate to a 'rural hamlet'
- The transport assessment is flawed
- Parking on Kennel Lane is already busy

Flooding/Drainage:

- The existing sewage and surface water disposal systems within the village are currently inadequate. Increasing the waste input to a failing sewage system would not be appropriate in the short term or sustainable in the long term.
- Localised flooding and waterlogged soils have been, and continue to be, an issue in Witherley. Part of the proposed development site lies in an area defined by the Environment Agency and the LLFA as at risk from flooding from both river and surface water.
- Groundwater flooding may well be an issue.
- The proposed plans will build on land in flood planes zone 2 and 3
- Whilst the illustrative masterplan drawing is indicative and subject to change, it locates the children's play area in/ close to an area with a medium risk of flooding. This is poor design and so it's relocation should be factored in

Ecology:

- A full assessment should be undertaken to ascertain how this proposed development impacts on the SSSI in the immediate and surrounding area of Witherley. If there is any impact what so ever then it should not be approved.
- The proposal will lead to a loss of hedgerow

Character/Design:

- A development of this size will fundamentally change the village

- By virtue of location, and scale, the proposed development would adversely impact on the rural character of the countryside and setting of the village contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016), leading to loss of greenfield agricultural land.
- The development would destroy identified valued vistas included in policies in the emerging NDP, Figure 15, Important View No 12. The NDP has recently undergone examination.
- More trees need to be proposed
- Development would destroy the character of the site which falls within the Sense Lowlands landscape character area

Noise:

- Concerns about additional noise
- Archaeology and Heritage:
 - The site is close to a scheduled monument and further sites recorded on the Historic Environment Record. There are concerns about the possibility of buried archaeological remains in this location
 - The field and neighbouring fields are of historical interest and this development will destroy this

Other:

- Affordable housing- 10 or 15 houses should go where the kennels were
- Too many new strangers coming into village
- Spoilt green belt (Officer comment- the site is not within the green belt)
- The plans have not considered safeguarding children
- The proposal would lead to a loss of farm land
- The housing mix does not meet the needs of the village
- Increased delivery drivers
- Does Witherley need a new children's play area separated from the heart of the village?
- Concerns about invasion of privacy

5.3 Support comments have been received from 6 households, raising the following:

- Witherley is classified as a Rural Village under HBBC's criteria therefore the village is sustainable - with a primary school, pub, church, Witherley Playing Fields Trust football pitch and playground, Parish Rooms and access into Atherstone for local shops, pharmacy, doctors, bus and train links to Euston, London. For work Atherstone Carolyn Industrial Estate is within easy walking distance along lit footpaths along A5 or through Cottages Piece using T31 definitive footpath.
- The houses will support the village primary school and increase the the number of pupils from within the catchment. The children can walk from the new

development to the school, could consideration please be given to the installation of a zebra/public crossing from the new development across Kennel Lane.

- The field is currently arable and resident's walk their dogs around the field even though there is no designated footpath and it is private land. As part of the development to increase connectivity could a definitive footpath be created through the development which links
- Kennel Lane to definitive footpath T28 which would enhance the walking opportunities to the nearby footpaths T27, T30 and T31.
- The development proposal also aims to increase the biodiversity net gain with the pools etc. To aid the achievement of 10% Biodiversity net gain could all the existing hedgerows and ditches remain.
- Witherley has a pub and shops and the children can walk safely to the school. There will only be a small change to the settlement boundary. Housing needs will be met and it will allow people who grow up in the area to be able to stay living locally.
- Flooding has been omitted due to the developer putting in balancing ponds etc.
- Witherley junctions onto A5 have nowhere near the amount of accidents as other hamlets within the Parish.
- An ideal location for additional housing in Witherley Parish
- The development provides housing that is need in the HBBC area, Witherley is classified as a village in HBBCs Policy which means it is the only settlement in the Parish that can sustainably accommodate housing.

5.4 One neutral comment was received which acknowledged the need for housing but wanted to point out traffic and drainage issues.

6. Consultation

6.1. **Witherley Parish Council** – No comments received

6.2. **North Warwickshire Borough Council** – Objects.
“The reason for this is due to the potential impact on the A5.

It is understood that the response from National Highways will be a significant consideration here, given the nature of the Kennel Lane access onto the A5 and the additional traffic generated from the development.

However, the Council's concern is very much based on the wider issue of the capacity of the A5.

Our up to date Local Plan allocations comprise substantial land for both residential and employment purposes, all of which are wholly dependent on the delivery of improvement works to the A5 throughout its route in North Warwickshire.

If this proposed new development is on unallocated land in your Development Plan, then if approved, it will take up capacity on the A5 and thus prejudice both the A5 improvements and then particularly the delivery of our allocated sites.

This is a strategic issue for the Council as any prejudice to the delivery of our Local Plan will be substantial. Additionally, I'm sure that you will be exploring the heritage

– underground – impacts, as well as the potential flooding issues in your consideration of the proposal.”

6.3 **National Highways (NH)- (Final Response)**

“Further to our previous responses to this planning application consultation National Highways have reviewed the proposals put forward by the developer in the technical note provided by Eddisons and dated August 2023. Given the scope, scale and impact of the development National Highways considers that the mitigations provided for within the technical note sufficiently address the requirements for sustainable and active transport provision.

Having explored the options for a pedestrian crossing of the A5, National Highways determines that given the development scope, scale and impact on the A5, appropriate investigation has concluded that any proposed mitigations at this level do not provide sufficient benefit, as they cannot be delivered to an acceptable DMRB standard. Demand generation is not such that a greater intervention should be sought from the current development proposal.”

With regards to the Longshoot and Dodwells roundabout NH concluded:

“Having given due consideration to the impacts at the A47 junctions at the Longshoot and Dodwells roundabout, National Highways concludes that the impact of this proposed development on the A5 at these locations is not severe.”

6.4 **LCC Highway Authority (LHA) – (Final response)**

“The Local Highway Authority (LHA) advice is that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.

Background

The Local Highway Authority (LHA) previously advised that the following additional information was required from the Applicant within its second observations, which were submitted to the Local Planning Authority on 21 April 2023:

- An independent Stage 1 Road Safety Audit of the site access and off-site works, along with a Designer's Response and revised drawing (if necessary) taking into account any problems raised;
- Confirmation as to the location of the speed survey, along with the LCC survey permit number;
- Revised vehicle tracking of the site access; and
- Clarification of whether neighbouring authorities have been contacted in respect of committed developments in the area.

The Applicant has now submitted a Highways Response Note (published on the Local Planning Authorities website on 13 June 2023) in support of the proposed development. This contains a Stage 1 Road Safety Audit ([RSA1] dated May 2023) with Designer's Response, updated swept path analysis of the site access (Eddisons drawing number 3658-SP01 C) and a revised site access/ off-site works drawing (Eddisons drawing number 3658-F01 Rev G).

Site Access/ Off-site Implications

The LHA has reviewed the Applicants RSA1 of the site access arrangements and off-site works shown on Eddisons drawing number 3658-F01 Rev D, along with revised swept path analysis.

The Applicant has also provided a location plan of the speed survey, showing this was undertaken at the location of the site access and survey permit number (FS-Case-484518735). The LHA is satisfied with the results of the speed survey.

The RSA1 detailed four problems. Problems 1 to 3 refer to restricted pedestrian visibility at an existing crossing point due to an overgrown hedge, potential for excessive dropped crossing gradients at an existing pedestrian crossing point and omission of tactile paving at an existing pedestrian crossing point. The Applicant has accepted all three recommendations within the RSA and agreed to resolve the problems at detailed design stage, or has already amended the drawing as necessary.

Problem 4 refers to intervisibility at an existing tactile crossing point at the junction of Kennel Lane with the A5. While the crossing falls under National Highways jurisdiction, any vegetation which would need to be cut back to the highway boundary falls within the County highway network. The LHA notes the Applicant has accepted the recommendation to cut back vegetation to the highway boundary.

The LHA have reviewed Eddisons drawing number 3658-F01 Rev G and considers both the site access and off-site footway works to be acceptable. It should be noted that if the Local Planning Authority grants planning permission for the proposed development, details such as a street lighting assessment, drainage details, tactile crossing construction details and tie in details for the footway into existing footway provisions will be required.

Highway Safety

The LHA advised within its second observations that it considers the proposals are unlikely to exacerbate an existing highway safety situation because of a pattern of PIC's on the county highway network. The LHA also advised it was unable to comment on the junction of Kennel Lane with the A5, given this falls under the jurisdiction of National Highways and falls outside of the county boundary and it therefore does not hold Personal Injury Collision data for the junction.

Trip Generation

The LHA advised within its second observations that it was satisfied with the Applicants trip generation and trip distribution analysis.

Junction Capacity Assessments

The LHA advised within previous observations that while it is not aware of any nearby committed developments within Leicestershire, the Applicant should enquire with neighbouring authorities in respect of any committed developments in the area which could route traffic through the village.

The Applicant has stated that National Highways have requested further information in respect of the strategic road network, notably the A5 Longshoot / Dodwells junction. On this basis the Applicant considers their dialogue with National Highways addresses this issue. The LHA advises that this does not consider the impact of committed development on the county highway network. Nevertheless, the LHA is aware that the site access would operate with considerable spare capacity under the 2035 future year scenario assessed by the Applicant, with the LHA usually only requiring an assessment five years on from the year the application is submitted.

Furthermore, development traffic along the A5 and to the southeast of Witherly is likely to route along more strategic roads such as the A447 to end destinations.

Transport Sustainability

As advised within the LHA's first observations submitted to the LPA on 31 January 2023, the Applicant has submitted a Travel Plan (TP) in support of the proposed development. While this is welcomed and the LHA would encourage the Applicant to implement the measures proposed, as per Part 2, Table PDP1 of the LHDG, the LHA do not require a TP to be submitted for the scale of development proposed. Therefore, the LHA could not condition the TP or require a monitoring fee.

It was also advised within the first observations, that in the view of the LHA, the lack of a local convenience store and an hourly bus service reduced the transport sustainability of the site.

Nevertheless, the LHA was satisfied for the LPA to consider the overall sustainability of the site.

The LHA has given further consideration to the provision of travel packs and bus passes as well as bus stop improvements. While travel packs are considered to be a benefit to new residents in order to signpost them to sustainable travel options in the area, the lack of an hourly bus service to the village and the fact that the nearest bus service (Stagecoach No. 7) to the site operates outside of peak times means that there is little justification for the LHA to request two x six month bus passes per dwelling.

Public Rights of Way

As detailed within the LHA's first observations, the LHA requests a financial contribution towards improvements to Public Rights of Way T27 and T28 this is detailed within the Contributions section further below. The LHA welcomes the provision of a footway connection between the site and Right of Way T28.

Contributions

To comply with Government guidance in NPPF and commensurate with Leicestershire County Council Planning Obligations Policy the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use:

- A.) Travel Packs, one per dwelling; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- B.) Improvements to the surrounding rights of way network (T27 & T28) including replacements to 5no. stiles, 3no. ditch crossings and 8no. waymark posts as well as altering legally-fixed alignments of the public rights of way to the value of £9,500.

Off-Site Implications

The LHA has not previously raised concerns in respect of crossing the A5 as this falls within National Highways jurisdiction and outside of the County boundary, however, the LHA would have no reasons to disagree with the advice provided by National Highways."

“Following a review of the submitted plans and documents, we recommend that you advise the applicant of the following archaeological requirements, to complete the Archaeological Impact Assessment. This repeats our comments provided on 10/01/23, taking into consideration the geophysical survey provided.

The Leicestershire and Rutland Historic Environment Record (HER) notes that the site lies within an area of archaeological interest, to the east of the medieval and post-medieval historic settlement core of Witherley (HER Ref.: MLE8929), and to the north of the Roman settlement and burgus at Mancetter (MLE3302 & 19039). We welcome the submission of a geophysical survey (SUMO report Ref.: 11481), although the results of this work are largely inconclusive. The geophysical survey has not identified any positive evidence for archaeological activity, however it has not established their absence either, as not all types of archaeological deposit (including prehistoric, Anglo Saxon remains and human burials) are sensitive to detection by this method.

The preservation of archaeological remains is, of course, a “material consideration” in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, we recommend that the planning authority defer determination of the application and request that the applicant complete the Archaeological Impact Assessment of the proposals.”

6.6 **LCC Ecology –**

“Having reviewed the updated Preliminary Ecological Appraisal Report (Collington Winter, September 2022) and the Biodiversity Net Gain Assessment (Collington Winter, July 2022), the site was found to have generally low value habitats, with the exception of the boundary hedgerows, trees and a small woodland. No evidence of protected species was recorded although there were potential bat roosting features in trees along the boundary. LCC would also note that from their records there are numerous bat roosts present within the barns to the south of the development site. Therefore this will need to be a consideration with the application.

The proposed plans appear to retain all boundary hedgerows and trees, as well as the inclusion of open space areas. The Biodiversity Net Gain Assessment shows that a net gain is very achievable within the site. It would be nice to see the possibility of higher target conditions being aimed for with some of the habitats to create nicer quality habitats within the development. It would also be nice to see integrated bird and bat boxes within some of the new build properties.

With the reserved matters application LCC Ecology will need to see a suitable lighting plan (with Lux contouring) to ensure that boundary vegetation and the bat roosts within the building to the south will not be subject to light spill (under 1 lux is suitable for bat foraging).

Conditions are recommended requiring the submission of an ecological mitigation and enhancement strategy.”

6.7 **LCC Planning Obligations –** The following contributions totalling £405, 412.53 are required as a result of this development:

- Waste – Barwell RHWS - £2, 476.50
- Libraries – Market Bosworth Library - £1, 509.88
- Primary Education – Witherley Church of England Primary School – £220, 272.00

- Secondary Education (11-16) – The Market Bosworth School- £149, 264.60
- Post 16 Education – The Hinckley School- £31, 889.55

6.8 **Lead Local Flood Authority (LLFA)–**

“It is noted that the 1.7 ha greenfield site is located predominantly within Flood Zone 1 (low risk) with small areas of Flood Zone 2 and 3 (medium and high) risk of fluvial flooding in the north east corner, and a low to medium risk of surface water flooding on parts of the site predominantly along the watercourse at the east boundary. The applicant has procured fluvial modelling results from the Environment Agency that details the envisioned flood levels and proposed dwellings are shown outside these areas.

The proposals seek to discharge at the 4.3l/s via an attenuation basin to the on-site watercourse. Subsequent to the previous LLFA response the applicant has submitted a technical note to attempt to address the LLFA’s concerns. Included within this is a drainage strategy plan to sufficient detail with source control SuDS included. The applicant has also committed to the replacement of the existing on-site culvert for a crossing with either a new culvert or clear span structure. This should be reflected in the detailed design of surface water drainage in reserved matters approval or discharge of planning conditions.”

Leicestershire County Council as the LLFA advises the LPA that the proposals are considered acceptable to the LLFA subject to planning conditions listed at the end of this report.

6.9 **Environment Agency –** The proposed development will only meet the National Planning Policy Framework’s requirements in relation to flood risk subject to a planning condition requiring the development to be carried out in accordance with the submitted flood risk assessment.

6.10 **Severn Trent-** Foul water is proposed to connect into the public combined water sewer, which will be subject to a formal section 106 (of the Water Industry Act 1991) sewer connection approval. A sewer modelling study may be required to determine the impact this development will have on the existing system and if flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

“Surface water is proposed to discharge into Witherley Brook, which we have no comment. Please note that It is advised to discuss surface water proposals with the Lead Local Flood Authority for their requirements or recommendations regarding acceptable disposal methods or flow rates”

6.11 **Leicestershire Fire and Rescue-** No comment

6.12 **NHS England –**

“We acknowledge your letter for the above development which identifies a proposed housing development of 50 dwellings. We note that based on census data 2021, a household averages of 2.4 patients per dwelling. The housing development will result in a minimum population increase of 120 patients. This figure would evidently be higher dependent on the number bedrooms in each dwelling.

The GP practice closest to the development and most likely to be affected by growth is Castle Mead Medical Centre: Pine Close Surgery

Any increase in patient registrations at a practice impacts a GP's clinical capacity and adds to their need of increasing that capacity. We are requesting S106 healthcare contributions to support that increase and improve primary care services for the area.

The proposed development generates a requirement for a contribution of £24,153.60 and this should be released prior to first occupation.”

6.13 **HBBC Conservation** – There are no designated or non-designated heritage assets within the site boundary although there are number of heritage assets within the settlement and its surroundings.

Due to varying levels of intervisibility it is considered that the proposal is located within the setting of and has the potential to affect the following heritage assets:

- The grade I listed building The Church of St Peter, Witherley
- The scheduled monument Manduessedum Roman Villa and Settlement
- The non-designated heritage asset Atherstone Hunt Kennels and Stables

Where visible the context of longer-range views of the church spire of the grade I listed Church of St Peter from sections of the application site and the wider countryside to east of the site from the public right of way network will be altered by the introduction of built form within the foreground and middle ground, but this new development would be read within context of the existing expansion of the settlement to the east from its original historic core. More important views of the church from elsewhere in its setting would not be affected. Overall, the change of context of a limited number of views resulting from the proposed development would not reduce the ability to appreciate the significance of the church to an extent that would be considered harmful.

Any limited but potential visibility of the proposed development from the scheduled monument Manduessedum would represent the extension of extant built form in its wider setting which does not and would not infringe on any understanding and appreciation of key aspects of its significance. Due to the layout of the proposed development, with the eastern section of the site being undeveloped landscaped amenity area, existing views towards the monument from the south-eastern corner of the application site would be unaffected. The proposal would therefore have no adverse impact upon the significance of the scheduled monument.

As concluded by the Heritage Desk Based Assessment (DBA) most elements of the significance of the Atherstone Hunt complex would not be adversely affected by the proposal. However, the introduction of residential development into its immediate agricultural backdrop would considerably alter their setting to the north. The proposed layout of the development does limit the extent of adverse impacts resulting from the development, given the slight separation of the proposed development from the immediate northern boundary of the Hunt complex due to the location of the public footpath along the southern section of the application site, and the extent of the built form being within the western section of the site only close to existing modern residential development. The resulting adverse effect to the significance is considered to be minor in level.

The proposal is also located within the setting of the non-designated heritage asset the Atherstone Hunt complex and it would, as also concluded by the applicant's submitted Heritage DBA have a minor adverse impact upon its significance.

As the proposal would cause harm to the Atherstone Hunt Complex the harm caused to these designated heritage assets must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP and section 16 of the NPPF.

6.14 Historic England-

"Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application."

6.15 HBBC Affordable Housing – The affordable housing requirement for Hinckley and Bosworth is set out in policy 15 of the Core Strategy. As this site is classed as a site in the rural area, the affordable housing requirement would be for 40% affordable housing. The tenure should be split between 75% social rented and 25% intermediate tenure. This would mean 20 properties should be available for affordable housing.

5 properties should be provided as First Homes, 11 properties for affordable rent and 4 for shared ownership. This would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and more than meet the requirement for 10% of all dwellings for affordable home ownership (subject to rounding).

The Housing Register at 21 December 2022 shows the following number of live applications are waiting to be housed in Witherley:

| Bedroom Size | Number of households | Number with a connection to Witherley |
|--------------|----------------------|---------------------------------------|
| 1 bed | 84 | 2 |
| 2 bed | 39 | 0 |
| 3 bed | 28 | 0 |
| 4 bed | 15 | 1 |
| Total: | 166 | 3 |

There is no up-to-date local housing needs survey for Witherley. People identifying as being in need of affordable rented housing from the last survey would have been advised to join the council's housing register and therefore if they are still in need it is expected they would be part of the council's housing register information.

The application indicates that the policy compliant 40% of affordable housing will be provided on site. It is requested that the affordable housing should be provided as a mix of 2 bed 4 person and 3 bed 5 person houses, meeting the space standards set out in the Nationally Described Space Standards.

As this site is in the rural area, the section 106 agreement requires a connection in the first instance to people with a local connection to Witherley, with a cascade to a connection to the Borough if there are no village connection applicants. The local connection criteria is set out in the council's Housing Allocations Policy.

6.16 HBBC Compliance and Monitoring –

“The proposed master plan details a LEAP and accessible green space and could also provide informal open space. It would be useful for them to provide the sqm of each of the typologies that they are proposing on site (we can then see if there is likely to be any excess which is to be included in the legal agreement).

According to the POS Recreation Study 2016 it illustrates that there is a deficit in all types of open space and therefore any onsite that can be provided is welcomed.

These typologies on site should be secured by legal agreement in line with the Councils policy for the sqm to be provided per dwelling and will also provide the minimum amount plus indexation to be spent on the equipped area. Any additional open space that is provided in excess of the Council’s requirements should also be included in any maintenance fees / areas of transfer and relevant maintenance contributions

An offsite outdoor sports contribution should be secured if possible to improve outdoor sports in the area such as at WIT03 which indicates outdoor sports provision and the Church of England Playing Fields WIT05.”

- 6.17 **HBBC Environmental Health** – No objections subject to conditions regarding contamination and a Construction Environmental Management Plan.
- 6.18 **HBBC Waste Management** – No objections subject to a condition regarding provision for waste and recycling storage and collection.

7. Policy

7.1. Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide
- Landscape Character Assessment (2017)
- Landscape Sensitivity Study (2017)
- The Green Infrastructure Strategy (2020)
- Open Space and Recreation Study (2016)
- Heritage Strategy (2020)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire and Rutland Historic Environment Record

7.5. Witherley Neighbourhood Plan

At a referendum held on 4th May 2023, 61% of voters voted against the adoption of the Witherley Neighbourhood Plan. Therefore the plan is not made, meaning it does not form part of the Hinckley and Bosworth development plan and it is therefore given no weight in the determination of this application.

8. **Appraisal**

8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited and relate largely to the principle of development. Nonetheless, the following represent the key issues:

- Principle of Development
- Housing Mix and Supply
- Impact upon Highway Safety
- Impact on the landscape and visual amenity
- Design and Layout
- Impact on Heritage Assets

- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Archaeology
- S106 Heads of Terms
- Planning Balance

Principle of Development

- 8.2. 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. Paragraph 2 of the National Planning Policy Framework (NPPF) repeats this and states 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) (CS) and the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS) was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024 with adoption due around January 2025. The Replacement Local Plan is therefore delayed.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough, Witherley is identified within the CS as a Rural Village. The Hinckley and Bosworth Settlement Hierarchy Paper dated December 2021 states that Witherley is located in the west of the Borough, close to Atherstone, and has a population around 670. Witherley benefits from the following primary facilities – a primary school and community hall, alongside secondary facilities including a pub, place of worship and play facilities.
- 8.6. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the Borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework.

Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

8.7. Paragraph 11d) of the NPPF states that, for decision makers:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

8.8. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.

8.9. Paragraph 60 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.

8.10. Paragraph 76 of the NPPF sets out that *“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years.”*

8.11. Development on this site would contribute to the housing land supply and consideration should be given to paragraph 77 of the NPPF which states: *“To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability.”*

8.12. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.13. The application site is located adjacent to the settlement boundary of Witherley, with built development to the west on the opposite side of Kennel Lane and to part of the northern and southern boundaries. Policy 12 of the Core Strategy states that amongst other matters “to support the existing services in Rural Villages the council will: Support housing development within settlement boundaries that provides a mix of housing types and tenures as details in Policy 15 and Policy 16”. For Witherley, the policy states the Council will *“Work with the Highways Agency to address identified*

problems with the A5/Kennel Lane junction. If these problems can be overcome, the council will allocate land for limited housing development". Ultimately, despite discussions with the Highways Agency (now National Highways) no land was allocated for residential development within the SADMP. Whilst Policy 12 is supportive of some development within Witherley, as the site is outside of the settlement boundary the proposal would conflict with the policy.

- 8.14. As the site is on land which is designated as countryside policy DM4 of the SADMP is of most relevance with regard to the principle of development. Policy DM4 of the 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.
- 8.15. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or*
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or*
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or*
 - d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or*
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation*
- and:
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and*
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and*
 - iii) It does not create or exacerbate ribbon development; with Core Strategy Policies 6 and 9; and*
 - iv) If within a Green Wedge, it protects its role and function in line*
 - v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21*
- 8.16. The proposed development does not relate to any of the criteria above in Policy DM4, but this does not mean that the development is not sustainable. The application seeks to justify why development in this location might be deemed to be sustainable; and puts forward a reasonable assessment of how the proposal would contribute to sustainable development as required by the NPPF. The thrust of the justification for the proposal is that it responds positively to the identified lack of a five-year housing land supply in the Borough, includes affordable housing, public open space, highway improvements beyond mitigation of the scheme and other socio-economic benefits.
- 8.17. It is considered that the proposed development fails to comply with policies DM4. To the extent that Policy DM4 seeks to implement the Core Strategy through its approach to the countryside and settlement boundaries it is out of date. In terms though of the weight that should be afforded to Policy DM4 the emphasis of the policy

is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is consistent with and accords with the NPPF, particularly paragraph 174b which provides that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Policy DM4 can therefore be afforded significant weight.

- 8.18 As the Borough Council cannot currently demonstrate a five-year supply of housing, the presumption in favour of sustainable development needs to be considered. The three objectives to achieving sustainable development are identified as economic, social and environmental.

Housing Mix and Supply

- 8.18. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.
- 8.19. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.20. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus policy 16 is considered up to date in this regard.
- 8.21. Final number, mix of dwellings, layout and density will be determined at Reserved Matters stage, but the illustrative layout and Design and Access Statement shows that a mix of types, sizes and density of dwellings can be accommodated. The applicant has not undertaken a Building for Healthy Life Assessment (the replacement for Building for Life). A detailed assessment could be provided at Reserved Matters stage and could be required as a condition.
- 8.22. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.23. The housing officer has requested 40% of units on the site to be affordable, with a mix of 75% of those to be social or affordable rented and 25% intermediate tenure/shared ownership.
- 8.24. The applicant has indicated that the site will provide the policy-compliant requirement of 20 affordable homes including 5 properties provided as First Homes, 11 properties for affordable rent and 4 for shared ownership. For this development, a mix of 2 bed 4 person and 3 bed 5 person houses would be welcomed. As this site is in the rural area, the Section 106 Agreement requires a cascade that the affordable housing is offered firstly to people with a local connection, and secondly to people with a

connection to the Borough of Hinckley and Bosworth. This would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and more than meet the requirement for 10% of all dwellings for affordable home ownership (subject to rounding).

- 8.25. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.

Impact upon Highway Safety

- 8.26. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.27. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.28. Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 111 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.29. The applicant has been in lengthy discussions with the Local Highway Authority (LHA) and National Highways (NH) to overcome a number of initial concerns that were raised. They have submitted additional technical information, road safety audits, and proposals for offsite highway improvements. These are detailed in Section 2 above.
- 8.30. Concerns regarding highways, in particular the Kennel Lane and A5 junction and wider capacity and safety concerns regarding the A5 have been raised in most of the objection comments received for this application. However, following the submission of the additional and amended information both the LHA and NH have raised no objection to the development subject to conditions.
- 8.31. The below sections include an assessment of the proposal on the local highway network which typically falls under the jurisdiction of LCC as the LHA followed by an assessment of the proposal on the strategic road network (SRN) which mainly falls under the consideration by NH, albeit there is some cross over in places.

Site Access/ Off-site Implications

- 8.32. The site would be accessed off Kennel Lane, which is a C classified road subject to a 30mph speed limit. Access would be via a priority controlled T junction with the access road having a width of 5.5m and a 2m wide footway alongside the edge of Kennel Lane. The applicant undertook an automatic speed survey between 8 - 14 February 2023 in order to inform the visibility splay requirements. The speed survey indicated 85th percentile vehicle speeds of 30.1mph southbound and 32.4mph northbound. Visibility splays of 2.4 x 43 metres have been detailed on the submitted

plans to the north of the access and 2.4 x 48 metres to the south which is judged acceptable.

- 8.33. The applicant was requested to and undertook a Road Safety Audit (RSA). The RSA detailed four problems. Problems 1 to 3 refer to restricted pedestrian visibility at an existing crossing point due to an overgrown hedge, potential for excessive dropped crossing gradients at an existing pedestrian crossing point and omission of tactile paving at an existing pedestrian crossing point. The Applicant has accepted all three recommendations within the RSA and agreed to resolve the problems at detailed design stage, or has already amended the submitted plans as necessary. Problem 4 refers to intervisibility at an existing tactile crossing point at the junction of Kennel Lane with the A5. While the crossing falls under NH's jurisdiction, any vegetation which would need to be cut back to the highway boundary falls within the County highway network. The Applicant has accepted the recommendation to cut back vegetation to the highway boundary. The LHA have reviewed the revised highway drawings and considers both the site access and off-site footway works to be acceptable.

Highway Safety

- 8.34. The applicant has undertaken an assessment of Personal Injury Collisions (PICs) in the area between 2017 - 2021 using Crashmap. One PIC has been identified on the county network, which occurred at the junction of Kennel Lane with Atterton Lane. This was recorded as slight and involved a tractor and another vehicle. Whilst it appears 2022 PIC history has not been considered by the applicant, the LHA are unaware of any additional PICs occurring on the county network within the vicinity of the site. In respect of the single PIC recorded within the County boundary, this occurred at the junction of Kennel Lane with Atterton Lane in February 2018 and was recorded as slight. The PIC involved a tractor and another vehicle. While regrettable, the LHA consider this to be an isolated incident and that the proposals are unlikely to exacerbate an existing, known highway safety situation where there are a pattern of PIC's.

Trip Generation and Junction Capacity Assessments

- 8.35. The LHA consider that the additional trips which may be generated by the development from the trip rate analysis are considered to be negligible. The site access would also operate with considerable spare capacity as outlined further below.
- 8.36. As previously advised, the Applicant has undertaken capacity assessments of the following junctions:

- Site access/ Kennel Lane
- A5 Witherley Road/ Kennel Lane

The Applicant undertook a new traffic survey at the A5 junction on Wednesday 8th February 2023 and based the capacity assessments for both junctions on the data gathered from this traffic count. This traffic count has been accepted by NH within their comments submitted to the LPA on 19 April 2023.

- 8.37. Ratio of Flow to Capacity (RFC) is a term used in Transport Modelling to assess the operation of a junction. The result provides an indication of the likely junction performance, with a value of 1 implying that the demand flow is equal to the capacity. Typically a value of 0.85 is seen as the practical capacity, with results higher than this more likely to experience queuing or delay. The RFC of junctions 1 and 2 are not

proposed to exceed 0.85 with the development in place in 2035 as detailed in Figures 1 and 2 below.

| Arm | 2035 'With Development' | | | |
|-----------------|-------------------------|---|------------|---|
| | Weekday AM | | Weekday PM | |
| | Max RFC | Q | Max RFC | Q |
| Site Access | 0.03 | 0 | 0.03 | 0 |
| Kennel Lane (s) | 0.02 | 0 | 0.12 | 0 |

Figure 1: Site access/Kennel Lane capacity assessment results

| Arm | 2035 'Without Development' | | | | 2035 'With Development' | | | |
|-----------------------|----------------------------|---|------------|---|-------------------------|---|------------|---|
| | Weekday AM | | Weekday PM | | Weekday AM | | Weekday PM | |
| | Max RFC | Q | Max RFC | Q | Max RFC | Q | Max RFC | Q |
| Kennel Lane | 0.35 | 1 | 0.38 | 1 | 0.49 | 1 | 0.56 | 1 |
| A5 Witherley Road (w) | 0.00 | 0 | 0.00 | 0 | 0.00 | 0 | 0.00 | 0 |
| Farm Access | 0.00 | 0 | 0.00 | 0 | 0.00 | 0 | 0.00 | 0 |
| A5 Watling Road (e) | 0.12 | 0 | 0.38 | 3 | 0.12 | 0 | 0.53 | 4 |

Figure 2: A5 Witherley Road/ Kennel Lane capacity assessment results

Both junctions, the site access and Kennel Lane arm of the A5 junction would operate with spare capacity.

Transport Sustainability

- 8.38. The Applicant has submitted a Travel Plan (TP) in support of the proposed development. While this is welcomed and the LHA and LPA would encourage the applicant to implement the measures proposed, as per Part 2, Table PDP1 of the Leicestershire Highway Design Guide, the LHA do not require a TP to be submitted for the scale of development proposed. Therefore, the LHA have advised it could not condition the TP or require a monitoring fee.
- 8.39. It was also advised within the first observations, that in the view of the LHA, the lack of a local convenience store and an hourly bus service reduced the transport sustainability of the site. Nevertheless, the LHA was satisfied for the LPA to consider the overall sustainability of the site. In terms of the overall sustainability of the site, Witherley benefits from the following primary facilities – a primary school and community hall, alongside secondary facilities including a pub, place of worship and

play facilities. These facilities are located within walking distance of the site. The lack of a shop and hourly bus services do reduce the sustainability of the site, however, it is noted that the Core Strategy accepts the principle of some housing development in Witherley. The offsite improvements and financial contributions are largely focussed on improving the pedestrian links/from the site, however, will also improve connectivity for the village in general through new and improved footpath links including those to Atherstone which has other services. It is judged that the site is acceptable in terms of its overall sustainability and the scale of development.

- 8.40. The LHA has given further consideration to the provision of travel packs and bus passes as well as bus stop improvements. While travel packs are considered to be a benefit to new residents in order to signpost them to sustainable travel options in the area, the lack of an hourly bus service to the village and the fact that the nearest bus service (Stagecoach No. 7) to the site operates outside of peak times means that there is little justification for the LHA to request two six month bus passes per dwelling, however, one six month bus pass per dwelling is judged to be reasonable.

Public Rights of Way

- 8.41. The Applicant is proposing to provide a link and financial contributions to Public Right of Way (PRoW) T28 to the east of the site as well as financial contributions towards improvements to PRoW T27 (to the south of the site). Improvements to the PRoW network would include replacing stiles, ditch crossings and waymark posts.

Internal Layout

- 8.42. The internal layout of the development is not for consideration at this stage and would be assessed as part of any subsequent reserved matters application.

The Strategic Road Network

- 8.43. With regards to the A5, NH consider that difference in the number of two-way trips generated by the proposal during the AM peak and PM peak would not be material. The trip rates are considered to be acceptable.
- 8.44. Whilst acknowledging the distance to the junction (4.7 miles) NH requested further modelling of the potential impact on the A5 Longshoot/Dodwells junction. The information showed the number of trips using the Longshoot/Dodwells junction was modest (14 two way trips in the AM and PM peak hours), given the capacity and operational concerns at the junctions NH consider that any additional generation of trips is a severe impact at present. NH therefore considered that the applicant must demonstrate that additional trips on the network can either be mitigated by improvements, or offset through sustainable or active travel means.
- 8.45. The applicant has considered how connectivity between the site and local area could be improved so that trips by sustainable modes of travel can be maximised. Four mitigation measures have been under consideration proposed by the applicant:

- IMP1 - Offer a financial contribution to provide cycle parking at Atherstone train station;
- IMP2 - Offer a financial contribution to upgrade PRoW between Riverside Road (Atherstone) and Mill Lane (Witherley); (This is separate to the improvements to PRoW T28 and T27 outlined above)
- IMP3 - Proposed improvements to existing uncontrolled crossing to the south the A5/Witherley Road junction, comprising advanced warning signage; and

- IMP4 - New uncontrolled crossing on the A5 with associated signage, just west of the Kennel Lane junction.
- 8.46. In their final consultee response NH consider that given the scope, scale and impact of the development, the mitigations provided above sufficiently address the requirements for sustainable and active transport provision. However, having explored the options for a pedestrian crossing of the A5 (IMP4), NH determines that given the development scope, scale and impact on the A5, appropriate investigation has concluded that any proposed mitigations at this level do not provide sufficient benefit, as they cannot be delivered to an acceptable design standard. Furthermore, demand generation is not such that a greater intervention should be sought from the current development proposal. Considering the advice of NH and that the pedestrian crossing would link with an existing PRoW which does not offer a particularly direct or attractive route to Atherstone the requirement of IMP4 is not judged to be necessary. IMP1-IMP3 are considered by NH to be adequate improvement/mitigation/offsetting measures to account for the additional trips on the network.
- 8.47. Furthermore, NH concludes that the impact of this development on the Longshoot/Dodwells junction would not be severe. Considering the views of NH the impact on the strategic road network (A5) is judged not to be severe subject to the mitigation measures outlined above which would be secured through the S106 and a condition requiring the submission of a Construction Environment Management Plan.
- 8.38. Overall, therefore whilst the objections with regards to the highway network are noted, the impacts of this proposed development in relation to access are not considered to be severe to pose an unacceptable impact on highway safety. The proposal is judged to comply with Policy DM17 and Policy DM10 of the SADMP and the aforementioned policies of the NPPF subject to conditions and S106 contributions.

Landscape and Visual Impact

- 8.39. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where 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. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.
- 8.40. This development is for up to 50 homes with densities of 25-35 dwellings per hectare alongside significant levels of open space and habitat creation. Housing on the eastern countryside edge of the site are proposed to be of lower density than the remainder of the site. Whilst the mix of dwellings would be determined at subsequent Reserved Matters stage(s) the indicative proposals include a mixture of detached and semi-detached buildings providing a range of accommodation and tenure. The illustrative masterplan indicates that the proposed built development would be located within the western and central parts of the site away from countryside and flood zone to the east.
- 8.41. Approximately 1.5ha of land is indicated for new green spaces, predominantly but not exclusively to the southern and eastern edges of the site. This green space is proposed to include the retention of key landscape features (hedges and trees), informal public open space, a children's play area, wildlife enhancement areas and a

new recreational route to the east and south of the site. SUDS features are also proposed to the south east of the site.

- 8.42. At a national scale the site is within NCA 72 “Mease/ Sence Lowlands” and at a local level the site is within Landscape Character Area (LCA) “Sence Lowlands” in the Hinckley and Bosworth Borough Landscape Character Assessment (September 2017). The key characteristics of LCA “Sence Lowlands” of relevance to the site include the following: flat to gently rolling lowland vale landscape with rounded clay ridges and shallow valleys giving rise to extensive and open views; well-ordered agricultural landscape with a regular pattern of rectilinear fields lined by low hedgerows with mature hedgerow trees; a rural and tranquil character; spired and towered churches form prominent landmarks in the open landscape; small villages with strong sense of place and local vernacular of red brick.
- 8.43. Landscape strategies to maintain and enhance the character area of relevance to the site contained within the HBBC Landscape Character Assessment, include the following:
- *Retain hedgerows and replace hedgerow trees to ensure continuation when they reach the end of their life. Encourage the use of traditional ‘Midlands-style’ hedgelaying;*
 - *Conserve the open rural views including views to church spires and towers in their rural setting;*
 - *Retain areas of tranquillity and rural character, ensuring that development in such areas respects the rural context; and*
 - *Respect and enhance the strong character of the villages, ensuring new development complements existing context with regards to scale, form, materials and boundary features.*
- 8.48. Within the Landscape Sensitivity Assessment (September 2017) Witherley is assessed as having a moderate sensitivity to residential housing (2-3 stories), which suggests that “*The character and quality of the landscape or characteristics of the landscape are moderately susceptible to being changed as a result of introducing the development type, in principle*”. This is a result of a combination of factors;
- *A flat to gently rolling lowland vale landscape and shallow tributary valley;*
 - *Fenny Drayton and Witherley are larger villages, close to the A5/A444, which have expanded out from their historic core to include modern residential areas with some exposed edges adjoining the rural landscape;*
 - *The areas which provide a rural setting to the settlements are particularly sensitive to change, including the setting of the Conservation Area of Witherley;*
 - *The low lying, relatively flat landform allows for long views across the rural landscape punctuated by hedgerows, mature hedgerow trees;*
 - *The spire of St Peter’s Church at Witherley is a local landmark;*
 - *The area between Fenny Drayton and Witherley, is made up of large fields with an exposed and open character. The area forms part of the wider rural landscape valued for walking and cycling, therefore views from public rights of way are particularly sensitive; and*
 - *The area is a rural, agricultural landscape, with areas of expanded/modern settlement at Fenny Drayton and Witherley. It is less tranquil than other parts of the wider character area due to proximity to Atherstone and the A5 and a number of minor roads which link to Atherstone*

- 8.49. The assessment also provides guidance to help minimise effects on sensitivities. Those relevant to the site include the following:
- *Include appropriate edge and boundary treatments to ensure any development is well integrated into the rural landscape including conservation/reinforcement of the field boundary network and tree planting where appropriate;*
 - *Retain hedgerows and wide grass verges where possible and take opportunities to enhance biodiversity where possible;*
 - *Ensure any new development is sensitively sited, seeking to avoid significantly affecting areas of strong rurality or tranquillity and rural character, and ensure new development responds sensitively to the rural context;*
 - *Respect and enhance the strong character of the villages, ensuring new development complements existing context with regards to scale, form, materials and boundary features;*
 - *Seek to conserve the open rural views where possible, paying particular regard to views to church spires and towers in their rural setting; and*
 - *New larger scale development associated with existing developed areas should favour low heights and dark or muted colours, with associated screening measures.*
- 8.44. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application.
- 8.45. The LVIA points out that the site and the agricultural land to the east of Witherley are predominantly open due to the combination of the medium to large-scale agricultural fields and the flat topography, however the well-established vegetation along the field boundaries does provide some enclosure towards the edges of the fields. The presence of existing dwellings to the north, south and west of the site itself slightly increases the sense of enclosure within the site and the site and its context are influenced by various suburban features. The existing settlement edge, and noise, movement and lighting associated with it, can be experienced from within the site. These aspects can also be experienced from within the agricultural landscape to the east of the site; however, they do become increasingly filtered by the well-established vegetation along the field boundaries. The A5 is also noticeable from within this landscape, as are views of overhead powerlines. Due to the influence of these suburban features, the scenic quality and sense of tranquillity within the site is reduced. However, it does increase as you travel further east across the agricultural landscape as views of the settlement edge become increasingly filtered. Officers would agree with this characterisation of the site, whilst it has value as a currently open parcel of land with views to the open countryside beyond, the proximity to the edge of the village and built form to the north, south and east create urbanising effects.
- 8.46. The appraisal has concluded that the landscape effects resulting from the proposed development would be highly localised and no higher than moderate. Negative effects would be predominately limited to the site itself as the existing landscape is influenced by existing residential development. Effects would also reduce over time as the proposed mitigation would reduce the influence of the proposed development on the surrounding landscape.

- 8.47. In terms of visual effects of the development, it would be visible and experienced from adjacent residential development on Kennel Lane and from footpath T28 to the east of the site. From further distances to the north and west, views of the development would be limited owing to existing residential development and vegetation. Greater views would be possible from the south and east across the agricultural landscape. The LVIA notes that depending on the distance from the site and degree of intervening vegetation, the extensiveness and ubiquity of these views varies. The proposed development would also be seen in the context of the existing settlement.
- 8.48. Eleven viewpoint locations are assessed within the LVIA. The appraisal found that the majority of views would be filtered or screened by the combination of the existing and consented residential development, and the existing, well-established vegetation. Some clear views of the proposed development would be available within the site's immediate context, along Kennel Lane and footpath T28/1; however, the LVIA states these would become increasingly filtered as the proposed mitigation establishes. Longer distant views would also be available from the south and east, across the predominantly open, agricultural landscape, however the proposed development would always be seen in the context of the existing settlement and filtered by the existing, well-established vegetation. The proposed vegetation would also increasingly filter views overtime, reducing the visual effects. Long-distant, intermittent views would also be available from the higher ground to the south of the site, at Hartshill, through the gaps in existing vegetation. However, the proposed development would be seen from approximately 2.3km away and always viewed in the context of the existing settlement.
- 8.49. Officers agree with the assessment with regards to the longer distance views and those from the east, where the site is viewed with a backdrop of the settlement and where a significant landscaping buffer is proposed. However, officers consider that the landscape mitigation would not be so successful in filtering views, from Kennel Lane itself whereby landscaping is lesser and the proximity of the built development greater. Here the development would clearly have a lasting change through the development of an open field to a housing development.
- 8.50. Nonetheless, this change is not ignored within the LVIA which concludes that the site itself would experience moderate, negative effects due to residential development being introduced into an arable field. All other landscape receptors would experience minor to minor/ negligible effects as the site and its context is already influenced by the existing settlement and the majority of the existing vegetation would be retained and reinforced. Some visual receptors in close proximity to the site would experience major to moderate, negative effects due to the combination of their high susceptibility and the experience of large, clear views due to their proximity to the site. Some visual receptors further away from the site would also experience visual effects across the flat, agricultural land to the south and east of the site, and the higher ground to the south, however the proposed development would be seen in the context of the existing settlement and filtered by existing vegetation. All of these effects would also reduce overtime as the proposed mitigation establishes and the proposed development becoming increasingly contained.
- 8.51. Overall, whilst localised effects would occur, when referring to Policy DM4, it is considered that the development would not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

Design and Layout

- 8.52. Policy DM10(c), (d) and (e) of the 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 and incorporates a high standard of landscaping.
- 8.53. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.54. The Council's Good Design Guide (2019) identifies design objectives for Witherley. These objectives seek to protect the open setting of the church, playing fields and the grounds of the hall/rectory. Development along routes such as Church Road and Post Office Lane should protect important boundary treatments and avoid overtly generic domestic styles and should respond to a vernacular with both domestic and agricultural precedents. Along the riverside, development should look to halt generic modern domestic elements/styles. The impact on church views is assessed in the landscape and visual section above, otherwise the proposal would not impact Church Road, Post Office Lane or the riverside development owing to its location.
- 8.55. This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage - however, they will form details at the Reserved Matters stage if the outline application is approved.
- 8.56. Notwithstanding this, the indicative plans illustrate that the development will comprise up to 50 dwellings with access into the site from Kennel Lane. It also shows the provision of large amounts of open space to the periphery of the site, including important the countryside edge with the housing concentrated to the west of the site close to existing built form. It provides a reasonable approach to the scheme that will flow through into the detailed plans submitted at Reserved Matters stage and indicates that a suitable form of development could be brought forward in accordance with Policy DM10 of the SADMP and the Good Design Guide SPD.

Impact on Heritage Assets

- 8.57. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.58. Section 16 of the NPPF provides national policy on conserving and enhancing the historic environment. In determining planning applications, paragraph 197 of the NPPF advises local planning authorities to take account of
- a. The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b. The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and
 - c. The desirability of new development making a positive contribution to local character and distinctiveness.

- 8.59. Paragraphs 199-202 of the NPPF require that great weight is given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification and for that harm to be weighed against the public benefits of a proposal. Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.60. Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset or which better reveal its significance) should be treated favourably.
- 8.61. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets. All development proposals which have the potential to affect a heritage asset, or its setting will be required to demonstrate:
- a. an understanding of the significance of the heritage asset and its setting; and
 - b. the impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
 - c. how the benefits of the proposal will outweigh any harm caused; and
 - d. any impact on archaeology in line with Policy DM13.
- 8.62. Policy DM12 requires all development proposals to accord with Policy DM10 and states that development proposals should ensure that development proposals should make every effort to retain the significance of locally listed heritage assets.
- 8.63. The application site is highly likely to have been in agricultural use since the medieval period as common land and then post-medieval period following Enclosure. Although a reasonable distance from the historic settlement core of Witherley the application site forms part of its surrounding rural landscape. There are no designated or non-designated heritage assets within the application site itself.
- 8.64. A number of heritage assets are located within 1km of the site, it must therefore be assessed if the site falls within the setting of these assets. Due to the topography and presence of intervening built form and vegetation there is no clear inter-visibility nor is there any known key historic, functional or other relevant appreciable relationships between the application site and most of the heritage assets located within the 1km study area. The application site is therefore not considered to fall within their setting and due to the form of the proposal it is considered this position would not be altered during or following the development. Due to varying levels of intervisibility it is however considered that the proposal is located within the setting of and has the potential to affect the following heritage assets:

- The grade I listed building The Church of St Peter, Witherley
- The scheduled monument Manduessedum Roman Villa and Settlement
- The non-designated heritage asset Atherstone Hunt Kennels and Stables

8.66. The grade I listed Church of St Peter is located c.230m west of the application site and is positioned on the eastern banks of the River Anker within the historic core of Witherley. It principally derives its significance from the historic and architectural interest of its built form as a parish church although the church also embodies communal value as a place of worship and as the social and physical focal point of both the past and present community of Witherley. There is also recorded historic association between the church and the application site where a Tithe was paid to the church for its use as pasture land. Due to the height and prominence of the church tower and spire and the generally flat topography visibility of features of the church can be extensive providing it with a wide setting. The church spire can be glimpsed from sections of the application site and over the site from the public footpath network to the east. Whilst such views do demonstrate the importance of the church within its wider, now semi-rural landscape, and the application site does form part of its historic setting, only a minor appreciation of its significance is obtained from the views due to their limited extent, intervening distance and built form including modern residential development.

8.67. Where visible the context of longer range views of the church spire of the grade I listed Church of St Peter from sections of the application site and the wider countryside to east of the site from the public right of way network will be altered by the introduction of built form within the foreground and middle ground, but this new development would be read within context of the existing expansion of the settlement to the east from its original historic core. More important views of the church from elsewhere in its setting would not be affected. Overall, the change of context of a limited number of views resulting from the proposed development would not reduce the ability to appreciate the significance of the church to an extent that would be considered harmful.

8.68. Manduessedum is a scheduled monument regarded as a small Roman town comprising a defended settlement surrounding a villa and associated industry complexes and field systems. It is located c.300m south of the application site. The significance of the monument lies predominantly within its buried remains and earthworks which are of archaeological interest. Also of interest is the topographical location of the monument which allows important views across the north, east and south of the slightly lower elevated landscape, which includes the application site. Equally, in the present time there are some limited views of the monument from the south-eastern section of the site over intervening hedgerows and also both features can be viewed together from the public right of way network to the east. Such views are considered to allow for a very limited appreciation of the significance of the scheduled monument.

- 8.69. Any limited but potential visibility of the proposed development from the scheduled monument Manduessedum would represent the extension of extant built form in its wider setting which does not and would not infringe on any understanding and appreciation of key aspects of its significance. Due to the layout of the proposed development, with the eastern section of the site being undeveloped landscaped amenity area, existing views towards the monument from the south-eastern corner of the application site would be unaffected. The proposal would therefore have no adverse impact upon the significance of the scheduled monument.
- 8.70. The Atherstone Hunt traces its own history to 1815. The kennels and stables were constructed for the Hunt in c.1836 and consist largely of a complex of red brick buildings with slate roofs. These are located immediately to the south of the application site. The complex includes the former hunt kennels in the east and the former stables and cottages in the west. The stables are U shaped in plan surrounding a courtyard which faces south. A former smithy is located to the north. The kennels are located to the east of the stables. The assets were specifically built to accommodate all aspects and requirements of the Hunt and the care of the animals. Due to their historic and architectural interest and group value the Hunt complex is listed on the Leicestershire Historic Environment Record (reference MLE24332) and has been recognised as a local heritage asset by the Borough Council (a non-designated heritage asset in terms of the National Planning Policy Framework) during the determination of the recently approved application to convert the Stables and Kennels to residential use (ref 21/00789/FUL). Aspects of the Hunt complex setting are considered to make a positive contribution to its significance and the ability to appreciate that significance. These aspects include the plot of land within which the assets sit and which the assets were orientated to take advantage of for the grazing of horses and the exercise of hounds, the seclusion of the assets set back from the early Witherley village core, and the wider agricultural backdrop (which includes the application site) which provides the setting of the Hunting grounds.
- 8.71. As concluded by the applicants submitted Heritage Desk Based Assessment most elements of the significance of the Atherstone Hunt complex would not be adversely affected by the proposal. However, the introduction of residential development into its immediate agricultural backdrop would considerably alter their setting to the north. The proposed layout of the development does limit the extent of adverse impacts resulting from the development, given the slight separation of the proposed development from the immediate northern boundary of the Hunt complex due to the location of the public footpath along the southern section of the application site, and the extent of the built form being within the western section of the site only close to existing modern residential development. The resulting adverse effect to the significance is considered to be minor in level.
- 8.72. In weighing applications that affect directly or indirectly non-designated heritage assets, paragraph 203 of the NPPF requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. The scale of the harm in this case is considered to be minor. Policy DM11 of the SADMP requires the benefits of any proposal to outweigh the harm caused to non-designated heritage assets. As part of the required balanced judgement the decision taker should

consider any public benefits may follow from the development and this could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Whilst it is likely that the proposal can deliver no heritage benefits, non-heritage benefits have been identified, the weight given to these benefits and the balancing exercise is undertaken in the conclusion.

Impact upon Residential Amenity

- 8.65. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.66. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.67. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.68. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.69. Residential properties lie immediately to the north of the site boundary, on the opposite side of Kennel Lane to the west and to the south of the site. It is considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have suitable separation distances and relationships with the surrounding existing residential dwellings and well as the internal relationship for proposed residential units.
- 8.70. Additional information with respect to contamination, a Construction Environmental Management Plan and lighting are recommended via condition.
- 8.71. It is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, would ensure that sufficient scrutiny and control would be retained to ensure all concerns are appropriately addressed. Therefore it is considered that the proposed development could be designed such to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Flood Risk and Drainage

- 8.72. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.73. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 8.74. The site is located predominantly within Flood Zone 1 (low risk) with small areas of Flood Zone 2 and 3 (medium and high) risk of fluvial flooding in the north east corner, and a low to medium risk of surface water flooding on parts of the site predominantly along the watercourse at the east boundary.
- 8.75. Whilst detailed layout and design would be finalised at Reserved Matters stage the applicant has procured fluvial modelling results from the Environment Agency (EA) that shows proposed dwellings outside the envisioned flood level areas. The EA is satisfied with the proposal subject to the development being carried out in accordance with the submitted flood risk assessment, this shall be conditioned.
- 8.76. A drainage strategy plan has been submitted with the application and includes source control SuDS. The applicant has also committed to the replacement of the existing on-site culvert for a crossing with either a new culvert or clear span structure. This would be reflected in the detailed design of surface water drainage in reserved matters approval or discharge of planning conditions. The proposals seek to discharge at 4.3l/s via an attenuation basin in the south eastern corner of the site to the on-site watercourse along the eastern boundary. The drainage strategy includes permeable paving to roads (excluding the main access road), a swale within the open space and water butts for each dwelling.
- 8.77. Subject to the submission of a detailed surface and foul water drainage strategy, to be conditioned, neither the Lead Local Flood Authority or HBBC drainage team have objected.
- 8.78. Several objection comments have raised concerns regarding the sewerage system in Witherley. Severn Trent Water have been consulted and have stated that foul water is proposed to connect into the public combined water sewer, which will be subject to a formal section 106 sewer connection approval. A sewer modelling study may be required to determine the impact this development will have on the existing system and if flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.
- 8.79. It is therefore considered that suitable foul water drainage can be delivered through the section 106 sewer connection process and the requirement for a foul water drainage strategy to be submitted by condition. It is noted by Severn Trent that improvements may be required, however, as is set out above these works would need to be completed before any additional flows are connected.
- 8.80. Subject to the aforementioned conditions the proposal is therefore judged to comply with Policy DM7 of the SADMP and the NPPF.

Ecology and Biodiversity

- 8.81. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.82. The ecology reports submitted with the application found that the site has generally low value habitats, with the exception of the boundary hedgerows, trees and a small woodland. No evidence of protected species was recorded although there were potential bat roosting features in trees along the boundary. LCC ecology also noted that there are numerous bat roosts present within the barns to the south of the development site.
- 8.83. A biodiversity net gain (BNG) assessment has been submitted and reviewed by the County Ecologist. This shows a 32.16% gain in habitat units and 32.32% gain in hedgerow units. The scheme retains a significant area of open space which has been proposed for enhancements for wildlife. The new neutral grassland, trees and SuDS habitats will create new habitats for a range of wildlife within the local area. The orientation of the open space, along the eastern and southern boundaries of the site, ensures that connectivity to the wider landscape is also retained. A detailed 'Ecological Mitigation and Enhancement Strategy' should be required by condition, to detail how the target habitat conditions will be delivered and the BNG calculations should be re-run at reserved matters once detailed plans have been produced.
- 8.84. Policy DM6 of the SADMP sets out that on site features should be retained, buffered and managed favourably to maintain their ecological Value, connectivity and functionality in the long term.
- 8.85. The indicative layout suggest the retention of existing boundary trees and hedges, this will be assessed in detail during any reserved matters application. It is judged necessary to also include a condition requiring a scheme for the protection of the trees and hedges during construction.
- 8.86. Subject to the condition requirements this application is considered be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Archaeology

- 8.87. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.88. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified., local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.

- 8.89. Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that directly affect non-designated assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.90. The County Archaeologist has commented that the Leicestershire and Rutland Historic Environment Record (HER) notes that the site lies within an area of archaeological interest, to the east of the medieval and post-medieval historic settlement core of Witherley (HER Ref.: MLE8929), and to the north of the Roman settlement and burgus at Mancetter (MLE3302 & 19039).
- 8.91. A geophysical survey has been submitted, although the results of this work are largely inconclusive the geophysical survey has not identified any positive evidence for archaeological activity, however it has not established their absence either, as not all types of archaeological deposit (including prehistoric, Anglo Saxon remains and human burials) are sensitive to detection by this method.
- 8.92. The preservation of archaeological remains is, of course, a “material consideration” in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. LCC archaeology department recommend that the planning authority defer determination of the application and request that the applicant complete an archaeological desk-based assessment and field evaluation. Officers have considered this request but judge that this can be dealt with by way of condition considering the outline nature of the application.

S106 Heads of Terms

- 8.93. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the 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.
- 8.94. 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 and paragraph 57 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:
- A) Necessary to make the development acceptable in planning terms;
 - B) Directly related to the development; and
 - C) Fairly and reasonably related in scale and kind to the development.
- 8.95. The contributions sought are detailed below:
- Health contribution - £24, 153.60
- Waste – Barwell RHWS - £2, 476.50

Libraries – Market Bosworth Library - £1, 509.88

Primary Education – Witherley Church of England Primary School – £220, 272.00

Secondary Education (11-16) – The Market Bosworth School- £149, 264.60

Post 16 Education – The Hinckley School- £31, 889.55

40% Affordable Housing provision – 20 homes comprising 5 First Homes, 11 for affordable rent and 4 for shared ownership (with local connection criteria)

Travel Pack provision of £52.85 per dwelling - £2,642.50 (subject to final dwelling numbers)

Highway contribution for the improvements to the surrounding rights of way network (T27 and T28)- £9, 500

Financial contribution to cycle parking at Atherstone station- £ To be determined

Financial contribution to upgrade the PRow between Riverside Road (Atherstone) and Mill Lane (Witherley); (This is separate to the improvements to PRow T28 and T27 outlined above)- £ To be determined

Off site outdoor sports contribution - £17, 376

Off site outdoor sports maintenance contribution- £8, 256

On site equipped children's play space contribution- £32, 747.40

On site equipped children's play space maintenance contribution- £31, 608

On site casual/informal play spaces maintenance contribution- £9,072

On site natural green space maintenance contribution - £28, 400

On site open space maintenance likely to be undertaken by a Management Company

S106 legal and monitoring fees

- 8.96. All the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. The applicant has expressed their willingness to enter into such a legal agreement and as such the application is considered to comply with the requirements of Policy DM3 of the SADMP and Policy 19 of the Core Strategy.

Conclusions and Planning Balance

- 8.97. 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.
- 8.98. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 8.99. Whilst the provision of services in Witherley does not include a shop or regular bus services, the site lies in an accessible location close to the facilities located within Witherley itself. Following ongoing dialogue with the LHA and NH neither body have objected to the proposal. Offsite highway improvements particularly to the surrounding footpath network and widening of Kennel Lane itself are judged to be public benefits beyond mitigation of the development itself which are attributed moderate positive weight. Furthermore the proposal complies with Policy DM17 of the SADMP.
- 8.100. The provision of up to 50 dwellings, 40% of which are to be affordable units, is considered to be a benefit of the proposal to which considering the scale of development moderate positive weight in favour of the scheme is attached. Furthermore the applicant is agreeable to the imposition of a planning condition that would ensure that the Reserved Matters are submitted in a shorter timeframe to the norm. In result, there is a likelihood that the proposed development would be deliverable within a shorter timeframe which is attributed additional positive weight.
- 8.101. It is considered that the proposal is offered no support by Policy DM4 of the SADMP and Policy 12 of the Core Strategy owing to its location outside of the settlement boundary. As such the application does not accord with development plan policy and is unacceptable in principle. These policies are considered to be broadly consistent with the overall aims of the NPPF and significant weight should be attached to the fact that the proposal is contrary to the development plan and would undermine the plan led approach endorsed by the Framework.
- 8.102. Notwithstanding that, the proposed development is not considered to have a significant harmful effect on the character and appearance of the countryside. In this regard it would be broadly acceptable and consistent with the requirements of Policy DM4 and Policy DM10 of the SADMP. The development would also be broadly consistent with the environmental protection aims of the NPPF.
- 8.103. The proposal is also located within the setting of the non-designated heritage asset the Atherstone Hunt complex and it would, have a minor adverse impact upon its significance. The scale of the harm in this case is considered to be minor. Policy DM11 of the SADMP requires the benefits of any proposal to outweigh the harm caused to non-designated heritage assets.
- 8.104. The delivery of market and affordable housing is a benefit of the scheme to which moderate weight should be given. Other benefits of the scheme include the delivery of biodiversity net gain on the site, the offsite highway improvements which will enhance the pedestrian routes and provision of open space beyond that required under policy these are considered to attract moderate positive weight. Further benefits include the economic and social benefits through the construction of dwellings (time limited) and from subsequent activities of future residents in the local area which would help support local, rural services in the longer term. These are attribute limited to moderate positive weight in turn.
- 8.105. As the tilted balance applies, paragraph 11(d) of the NPPF requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Taking into account the housing land supply position and the need for affordable homes within the borough, it is considered that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits (identified above) when assessed against the policies in the NPPF when taken as a whole. Furthermore it is considered that the

benefits of the scheme in this instance outweigh the minor harm to the non-designated heritage asset- the Atherstone Hunt Complex. Therefore, planning permission should be granted in this instance.

9. Equality implications

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

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

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

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. Recommendation

10.1 That the application be **Approved** subject to the conditions set out below and subject to the entering into of a S106 Agreement to secure the required financial contributions and other measures set out above at paragraph 1.1 that include affordable housing, highway improvements, open space, maintenance and monitoring costs.

10.2 Conditions

1. No development shall commence until details of the layout, scale, appearance and landscaping (hereafter called the reserved matters) have been submitted in writing to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

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).

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

two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall not exceed 50 dwellings in total and shall be carried out in accordance with the submitted application details, as follows:

- Site Location Plan Dwg No. 000 Rev C

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

4. All Reserved Matters submissions to be in broad accordance with the indicative layout as illustrated on Drawing Number 002 Rev D.

Reason: To ensure the development broadly accords with the details/information submitted to inform the consideration of the outline application in accordance with Policy DM3 of the Site Allocations and Development Management Policies DPD 2016.

5. As part of the first reserved matters submission a written scheme of investigation (WSI) shall be submitted in writing to and approved by the Local Planning Authority in writing for the first phase of archaeological works. Further WSI/s would be needed for Mitigation stage/s. For land that is included within the WSIs, 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 as set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with the requirements of Policies DM11, DM12 and DM13 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased

shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. 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 in writing to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

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

8. A `Building for a Healthy Life` assessment shall be submitted as part of the reserved matters submission details for this development. The details of the development shall incorporate the 12 considerations set out within the `Building for a Healthy Life` document (Homes England – June 2020) and parameters shall be agreed with the local planning authority and implemented on site in accordance with the approved details.

Reason: To ensure the site is delivers design quality, health and wellbeing provision and an integrated neighbourhood in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and Paragraph 130 of the NPPF.

9. No development shall commence above foundation level until a scheme for the installation of electric vehicle charging points has been submitted in writing to and approved in writing by the local planning authority. The scheme shall identify the number of units to benefit from electric charging points, together with full details of the location fitting and timetable for installation of the units. Thereafter the development shall be carried out in accordance with the approved details and timetable for the installation of the units, with the charging points retained in perpetuity thereafter.

Reason: To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework.

10. No development shall commence above foundation level until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages 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 external appearance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document 2016.

11. No external lighting of the site shall be installed until details have been submitted in writing to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles) and demonstrate that the lighting will not cause harm to protected species or their habitats (bats). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM6, DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

12. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details and thereafter retained in perpetuity.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

13. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

14. 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 adopted Site Allocations and Development Management Policies

Development Plan Document (2016) and the National Planning Policy Framework (2023).

15. Upon completion of any remediation works a Verification report shall be submitted in writing to and approved in writing by the Local Planning Authority. The Verification Report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure that the 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) and the National Planning Policy Framework (2023).

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

Site preparation and construction works shall be limited to the following hours;

Monday - Friday 07:30 - 18:30

Saturday 09:00 - 14:00

No working on Sundays, Bank and Public Holidays

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

17. No development approved by this planning permission shall take place until such time as a surface water drainage and foul sewage disposal scheme has been submitted in writing to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface and foul water from the site and to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users, in accordance with Policy DM7 and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

18. 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 in writing to and

approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

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 through the entire development construction phase in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

19. 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 in writing to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

20. 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, to prevent flooding by ensuring the satisfactory storage and disposal of surface and water from the site in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

21. The development shall be carried out in accordance with the submitted flood risk assessment (ref SHF.1671.007.HY.R.001.B, dated November 2022) and the mitigation measures it details in sections 5.2 and 7.3.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements.

The mitigation measures detailed in the flood risk assessment shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that no loss of fluvial flood plain storage will result from the implementation of this development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

22. As part of the first Reserved Matters submission an ecological mitigation and enhancement strategy shall be submitted in writing to and approved in writing by the LPA. Mitigation measures should include (but are not limited to) biodiversity protection zones, timing restrictions, precautionary working measures etc. The enhancement strategy shall ensure that Biodiversity Net Gain can be achieved on site and a mechanism for securing the implementation of the biodiversity off-setting and its maintenance/management for a period of 30 years in accordance with details approved in the enhancement strategy. Enhancement measures shall include (but are not limited to) native planting, wildflower grassland creation, and integrated bird and bat boxes within the new properties. Any mitigation or enhancement measures need to be clearly shown on all relevant submitted plans/elevations with a timetable for implementation.

Reason: To ensure that the development provide biodiversity enhancement in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2023).

23. Prior to commencement of development a Construction Traffic Management Plan shall be submitted in writing to and agreed in writing by the Local Planning Authority. The plan shall include as a minimum
- details of construction phasing
 - details of the routing of construction traffic and HGVs
 - construction traffic arrival and departure times
 - delivery times to avoid peak traffic hours
 - parking and delivery arrangements
 - clear and detailed measures to prevent debris, mud and detritus being distributed onto the road network, including details of wheel cleansing facilities

and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all construction activity in respect of the development shall be undertaken in full accordance with such approved details and timetable.

Reason: To ensure that the A5 Trunk Road, continue to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, and 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 unsuitable roads and lead to on-street parking problems in the area in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

24. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Eddisons drawing number 3658-F01 Rev G have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with policy DM17 of the adopted Site

Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

25. No part of the development shall be occupied until such time as the offsite works (provision of pedestrian footways and footway improvements) shown on Eddisons drawing number 3658-F01 Rev G have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

26. Prior to the occupation of 50% of the dwellings on site, the offsite works (uncontrolled crossing signage) shown on Eddisons drawing number 3658-F03 Rev C shall be implemented in full.

Reason: To mitigate the impact of the development on the strategic road network, in the general interests of highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

27. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 x 43 metres to the north and 2.4 x 48 metres to the south have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

28. No development shall commence until a scheme for the protection of trees and hedges to be retained has been submitted in writing to and agreed in writing by the Local Planning Authority. Such details as are approved shall be retained at all times during the construction process.

Reason: To reduce the possibility of harm to important landscape features during the construction process in accordance with the requirements of Policy DM6 of the Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2023).

Informatives

1. In relation to conditions relating to land contamination advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.
2. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local

Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway.

For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

3. 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.
4. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
5. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
6. A Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
7. A separate application for a diversion of an existing Public Right of Way should be submitted under the Town and Country Planning Act 1990 to the Local Planning Authority.
8. The applicant is not entitled to carry out any works directly affecting the legal line of Public Rights of Way until a Diversion Order has become operative.
9. Public Rights of Way must not be further enclosed in any way without undertaking discussions with the local Highway Authority (telephone 0116 305 0001).
10. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
11. Drainage condition informatives:
 - a) The scheme 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.
 - b) 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 event durations up to the 24 hour (or longer where required) for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods with results ideally showing critical details only for each return period.
 - c) Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
 - d) 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 property ownership. For commercial properties (where relevant), this should also include procedures that must be implemented in the event of pollution incidents.

- e) The results of infiltration testing 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. Where infiltration is deemed viable, proposed infiltration structures must be designed in accordance with CIRIA C753 "The SuDS Manual" or any superseding version of this guidance.
12. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.