

**Planning Committee 13<sup>th</sup> February 2024  
Report of the Head of Planning**

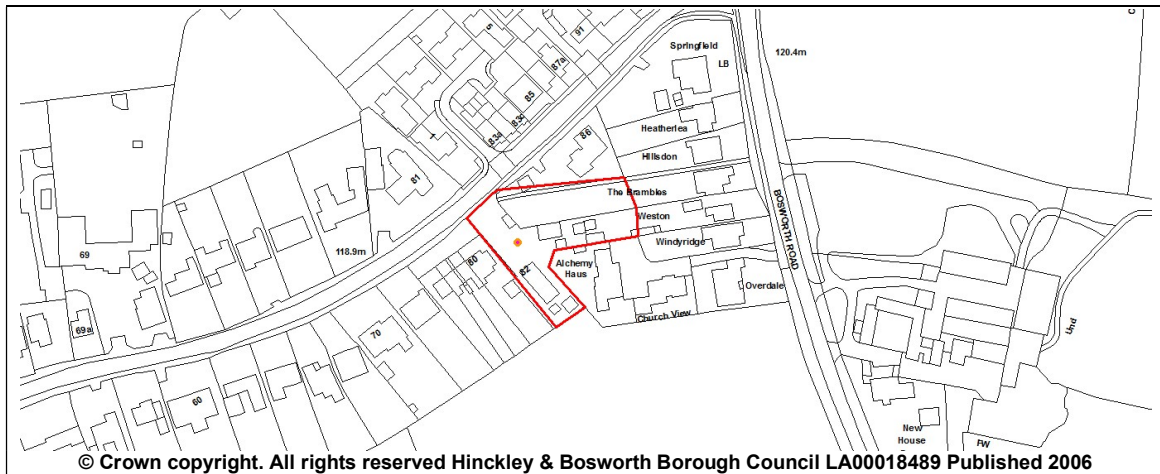
**Planning Ref: 23/00853/OUT  
Applicant: Mr John Oakley  
Ward: Cadeby Carlton M Bosworth & Shackerstone**



**Hinckley & Bosworth  
Borough Council**

**Site: Land Between 80 And 82 Main Street Carlton Nuneaton**

**Proposal: Outline planning permission for the provision of two detached dwellings and associated parking to the land between 80 and 86 Main Street, Carlton (All matters reserved except for Access)**



**1. Recommendations**

**1.1. Grant planning permission subject to:**

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

**2. Planning Application Description**

- 2.1. This planning application seeks outline planning permission for the provision of two detached dwellings and associated parking to the land between 80 and 86 Main Street, Carlton. Only access is sought for approval within this outline application and all other matters are reserved.
- 2.2. Both plots are accessed via a new shared access onto Main Street, which features an automatic security gate.
- 2.3. To facilitate this development, seven existing single storey outbuildings are removed from the site, which equates to 231.4sqm of floorspace.
- 2.4. Initially, the Applicant sought outline planning permission for layout and scale for three detached dwellings and associated infrastructure and all other matters were reserved. However, the Applicant decided to alter their proposal due to incomplete designs for the scheme and concerns raised by the Planning Officer regarding potential harm to neighbouring residential amenity.

- 2.5. The precise appearance of the scheme is reserved for later approval; therefore, the application is described and assessed via the indicative layout and siting of the development as shown on the submitted plan, Proposed Site Layout 23-49-PL02-F.

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

- 3.1. The 1,897sqm application site is located to the east of, but within the identified settlement boundary of Carlton, which is classified as a rural hamlet within the adopted Core Strategy. Carlton is largely a linear rural hamlet that is formed along both sides of Main Street. Main Street is an adopted and classified 'C' road that is subject to a 30mph speed limit.
- 3.2. The application site is to the south of Main Street and currently comprises several single storey ancillary residential and agricultural buildings and residential gardens.
- 3.3. To the north, east, and west of the site is residential development along Main Street, Orton Close and Bosworth Road, but beyond these properties and to the south of the application is open agricultural fields. Public Right of Way, Footpath S50, runs to the northern boundary of the site and connects Bosworth Road to Main Street.

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

- 4.1 N/A.

### **5. Publicity**

- 5.1 The application has been publicised by sending out letters to local residents.
- 5.2 15 members of the public responded to the application, 13 of which are from different addresses. Three members of the public made comments in support of the application because the proposal helps to meet the existing significant demand for housing and makes good use of the existing 'spare' land. However, 10 members of the public objected to the development on the following grounds:
- Harm to the character of the surrounding area.
  - Highway safety concerns.
  - Insufficient detail to assess the impact of the development.
  - Loss of established hedgerow and wildlife.
  - Loss of light and overshadowing to neighbouring properties.
  - Noise disturbance.
  - Off-street parking concerns.
  - Overbearing impacts that have a detrimental impact on the residential amenity of neighbouring properties.
  - Overdevelopment of the site.
  - Overlooking and loss of privacy to neighbouring residential amenity.
  - Poor transport sustainability.
  - The scheme is contrary to the requirements of the Good Design Guide.
  - The scheme is not in accordance with Carlton's identified housing need within as highlighted within the Housing Needs Survey (2017).
- 5.3 Following the submission of the Applicant's revised proposal, the application was publicised again by sending out further letters to local residents. Following this, two further letters from members of the public were received, both of whom have previously responded to the application, who objected to the planning proposal for the following reasons:
- The application has failed to address Carlton's current housing needs in regard to type, tenure, and form.

- Carlton has poor transport sustainability.
- Harm to the character of the surrounding area.
- Harm to neighbouring residential amenity as a result of overbearing and overlooking impacts.
- Highway safety concerns.
- Noise pollution as a result of the construction of the development.

5.4 One member of the public has also highlighted that the revised plans propose an access into the site across their land, which they do not give consent for. Whilst the ownership of land is a legal issue and not a material planning consideration, the Applicant has submitted Land Registry details to demonstrate that the scheme is constructed on land within their ownership.

5.5 No further responses have been received.

## **6. Consultation**

6.1 Carlton Parish Council have objected to the application on the following grounds:

- The Applicant has failed to address Carlton's housing needs as identified within Policy RN5 of the Council's Housing Needs Survey (2017).
- Overbearing impacts and subsequent harm to neighbouring residential amenity.
- Overlooking and loss of privacy to neighbouring dwellings.
- Unacceptable enclosing effects on the rear gardens of neighbouring dwellings.

Carlton Parish Council recognises that the site is suitable for residential development, but a scheme designed to meet local needs through the provision of bungalows and/or starter homes is more likely to be supported. The Parish Council also notes that it should be possible to connect the new houses to the main sewer in Main Street, but they would prefer it if surface waste was discharged via soakaway drainage within the site.

6.2 Upon being re-consulted with revised plans and a revised description, Carlton Parish Council maintained their objection to the development for the following reasons:

- The proposed bin store will obstruct the Public Footpath.
- The proposed pedestrian connection between the footway and the Public Footpath does not follow the definitive line of the Public Right of Way.

The Parish Council have requested that the site access and bin collection point should be contiguous and surface in bound materials, and that any gates should be set back at least 5.5m from the highway and fixed so as to open inwards only.

6.3 There have no objections to the application from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer (subject to conditions)
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer
- Leicestershire County Council (LCC)'s Ecology Unit (subject to conditions)
- Local Highway Authority (LHA) (subject to conditions)

6.4 The Council's Arboricultural Officer did not comment on the planning application.

- 6.5 Following the submission of the Applicant's revised proposal, statutory consultees were re-consulted on the application.

#### Drainage

- 6.6 The Council's Drainage Officer has no objections to the scheme, subject to the following condition:
1. Development shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

#### Ecology

- 6.7 On 26 October 2023, Leicestershire County Council's Ecology department consulted the Leicestershire and Rutland Environmental Records Centre (LRERC) for existing protected species data and designated sites within the locality, which may incur potential impacts depending on the proposals. None of which were identified.
- 6.8 LCC Ecology considered the Applicant's Preliminary Ecological Appraisal (PEA) to be acceptable, which identified that the application site was of limited ecological interest. However, LCC Ecology have requested that the recommended enhancements within Section 4.3 of the PEA to be secured via planning condition.

#### Highways

- 6.9 Within the Local Highway Authority (LHA)'s original response to the application, whilst the access was not under consideration at that time, the LHA stated that should a Reserved Matters (RM) application be forthcoming, the following information should be provided:
- Detailed scaled access drawing in accordance with Figure DG17 of Part 3 of the Leicestershire Highway Design Guide (LHDG).
  - Visibility splays in accordance with Table DG4 of Part 3 of the LHDG.
  - If appropriate visibility splays cannot be achieved for the recorded 85th percentile speeds of the road, a speed survey should be provided.
  - The access should be hardbound for a minimum of 5m behind the highway boundary in order to prevent debris and loose aggregate being deposited onto the highway. This would be dealt with at the RM application stage.
  - The LHA would request a gate set back distance of at least 5m, this is to ensure the vehicles can pull clear of the highway when accessing and egressing the site. Again, this would be dealt with at the RM stage.
  - The 'Bin Collection Point' should not be within the highway, nor should it impede the vehicular visibility splay envelopes.
- 6.10 The LHA also checked their Personal Injury Collision (PIC) database and find there have been no recorded PICs within 500m to the southwest and approximately 136m to the northeast to the junction of Main Street/ Barton Road/ Bosworth Road. However, the acceptability of the proposals is contingent on the delivery of a safe and suitable access as required by the NPPF.
- 6.11 Following the revised description of the scheme to seek planning permission for the access to the development, the LHA were re-consulted and they did not consider the application as submitted to fully assess the highway impact of the proposed development and further information was required.

- 6.12 On 03 January 2024, the LHA considered the Proposed Site Access plan to accord with Figure DG17 of Part 3 of the LHDG in terms of effective width access for the first 5m behind the highway boundary. The Applicant also provided speed survey data that demonstrated 85<sup>th</sup> percentile speeds of 34.2mph to the southwest of the access, and 32.7mph to the northeast of the access. As such, the LHA also considered the proposed site access's vehicular visibility splays of 2.4m by 54m in either direction in accordance with Table DG4 of Part 3 of the LHDG.
- 6.13 However, the LHA have requested a revised Site Plan to ensure that the Bin Collection Point (BCP) does not obstruct the Public Right of Way S50 to the east of the site.
- 6.14 The LHA has now confirmed that it would not seek to resist the proposals subject to conditions regarding access arrangements, visibility splays, surfacing, the position of gates and treatment of the adjacent Public Right of Way.

#### Trees

- 6.15 As the development does not impact any of LCC's Tree Preservation Orders (TPOs), LCC's Tree Officer has no comments to make either in support or opposition to the application.

#### Waste

- 6.16 The Council's Waste Management Officer has confirmed that the proposed bin collection point is suitable to the requirements of the Council's household waste collection service.
- 6.17 No further responses have been received.

## **7. Policy**

- 7.1 Core Strategy (2009):
- Policy 13: Rural Hamlets
  - Policy 14: Rural Areas: Transport
  - Policy 15: Affordable Housing
  - Policy 16: Housing Density, Mix and Design
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM10: Development and Design
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (December 2023)
  - Planning Practice Guidance (PPG)
  - National Design Guide (2019)
- 7.4 Other Relevant Guidance:
- Good Design Guide (2020)
  - Rural Needs Supplementary Planning Document (2011)
  - Leicestershire Highway Design Guide (LHDG) (2022)

## **8. Appraisal**

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Housing land supply
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

### Principle of Development

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.

8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.

8.4 However, Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.

8.5 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.

8.6 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Nevertheless, in accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.

8.7 Key Policy Principle RN5 of the Rural Needs SPD relates to local choice market housing and states that where there is evidence that there is a need for entry level market housing in a parish, a developer wishing to develop open market housing in the parish must:

- Demonstrate how their development will aim to meet those local needs; and
  - Undertake to market those properties, in the first instance, to people with a local connection
- 8.8 The Carlton Parish Plan (June 2022) includes the results of a questionnaire regarding housing needs in the parish. It sets out that most people consider there is no need for additional housing but that of those who were looking for alternative accommodation there was a desire for larger family homes as well as for smaller and more affordable properties.
- 8.9 Policy 13 of the adopted Core Strategy will support housing development within identified settlement boundaries of rural hamlets. The development is located within the identified settlement boundary of Carlton, and therefore the development is acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

#### Housing Land Supply

- 8.9 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.
- 8.10 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.11 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 4.89 years of deliverable housing on 01 April 2022.
- 8.12 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.13 Paragraph 11 (d) of the NPPF requires planning permission to be granted 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 proposed; 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.
- 8.14 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim is to meet as much of the area's identified housing need as possible with an appropriate mix of housing types for the local community.
- 8.15 Paragraph 70 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing

requirements of an area. In order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.

- 8.16 The development is for two residential properties, and therefore Policy 15 (Affordable Housing) and Policy 16 (Housing Density, Mix and Design) of the adopted Core Strategy are not applicable for this scheme.
- 8.17 The provision of two dwellings within this application site is unlikely to be a significant benefit to the housing land supply within the Borough. Therefore, it is considered that limited weight should be given to the benefits of this provision.

*Design and Impact upon the Character of the Area*

- 8.18 Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.19 Paragraph 139 of the NPPF states that 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 and supplementary planning documents such as design guides and codes.
- 8.20 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.21 The Good Design Guide requires infill development sites to be of a similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development.
- 8.22 The Good Design Guide also states that garages and car ports should generally be set back from the existing dwelling so as not to dominate the street scene. Furthermore, where hard standing is proposed at the front of a property, this should not constitute more than 50% of its total area. Ultimately, the Good Design Guide states that development with large runs of parking in front of housing does not contribute positively to the street scene and will not generally be considered acceptable.
- 8.23 No details of the design of the development have been provided, nor is layout, scale, or appearance subject to determination at this stage of the planning process.
- 8.24 Nevertheless, the indicative Proposed Site Layout suggests that the development can be constructed without protruding further than the existing building line of Main Street. Whilst the indicative plot positions and layout of the two dwellings do not directly follow that of Main Street, given the variety of styles and designs of properties along Main Street, and the position and layout of the housing developments to the north along Orton Close and the infill development to the rear of the site that is accessed via Bosworth Road, this is not considered to result in significant harm to the character of the surrounding area.
- 8.25 In addition, all the adjacent residential properties are predominantly two-storey in massing. Due to the variety of styles and designs of the properties along this



section of Main Street, the size and scale of two dwellings up to a massing of two-storey is unlikely to result in any significant harm to the character of the surrounding area.

- 8.26 Whilst the development is likely to be visible from the Public Right of Way, Footpath S50, the Public Footway is bordered by dense mature vegetation that limits visibility into the site. Furthermore, the Public Right of Way is experienced within the context of a residential setting because residential properties wholly surround the public footpath. Therefore, it is considered that the design, appearance and layout of a proposal for two dwellings within this application site can be constructed to preserve and respect the character of the surrounding area in accordance with Policy 13 of the Core Strategy, Policy DM10 of the SADMP, and the Good Design Guide.

#### Impact upon Residential Amenity

- 8.27 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.28 Paragraph 14.2 of the SADMP states that new development should be located and designed in such a way that the amenity of both existing residents and occupiers are fully considered when assessing planning applications.
- 8.29 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.
- 8.30 The Good Design Guide outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.31 The Good Design Guide also recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. The Good Design Guide also states that, *“An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design.”*
- 8.32 No details of the design of the development have been provided, nor is layout, scale, or appearance subject to determination at this stage of the planning process. Nevertheless, the acceptability of this application regarding its impact on residential amenity is determined in conjunction with the indicative Proposed Site Plan.
- 8.33 The property to the north of the site, 86 Main Street, does not feature any windows on the first floor of its south-western side elevation. Given that the indicative Proposed Site Plan demonstrates that a dwelling can be constructed in the application site without being located to the rear of 86 Main Street, it is considered that such a scheme is likely to be able to prevent any significant adverse impacts to the residential amenity of 86 Main Street at the Reserved Matters Stage.
- 8.34 Unusually, the rear of 1 Orton Close on the opposite side of Main Street faces the public highway. Nevertheless, the development is on the opposite side of Main

Street and Plot 1 is indicatively 23.4m from the rear boundary of 1 Orton Close, which exceeds the separation distance requirements of the Good Design Guide. Therefore, it is considered that the development can be designed such that it is unlikely to result in any significant adverse effects to the residential amenity of the occupants of 1 Orton Close.

- 8.35 The rear elevation of Plot 1 is also indicatively over 45m from the rear elevation of the properties immediately to the rear, and to the east, of Plot 1 along Bosworth Road. In addition, the shared rear boundaries of the properties to the east along Bosworth Road and Plot 1 are over 26m from the rear elevation of these neighbouring properties. In light of the above, it is considered that this development is likely to be able to prevent any significant adverse impacts to the residential amenity of the residential properties to rear of Plot 1, and to the east of the application site, along Bosworth Road at the Reserved Matters Stage.
- 8.36 Indicatively, Plot 2 is located 1.3m from the shared boundary of the property to the south, 80 Main Street, and protrudes 19.5m to its rear. Whilst this has the potential to result in significant harm to the residential amenity of the residents of 80 Main Street, this layout is only indicative. Therefore, it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained to ensure that such harm is appropriately addressed before the scheme can receive full planning permission.
- 8.37 Moreover, the rear elevation of the property to the southeast of the site is only 16.6m from the indicative location of Plot 2. If Plot 2 had a two-storey massing, this siting would be contrary to the separation distance requirements of the Good Design Guide, which is likely to result in significant harm to the residential amenity of this neighbouring property as a result of loss of light, loss of privacy, and overbearing impacts. Notwithstanding this, no details of the design, scale, volume, massing, layout, or siting of Plot 2 has been provided at this stage, and therefore it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained to ensure that such harm is appropriately addressed before the scheme receives any approval of Reserved Matters.
- 8.38 Although the proposed double garage and car port within the site is indicatively only 0.8m from the shared boundary of the residential dwelling to the southeast, the garage is indicatively over 6m from the rear elevation of this neighbouring property. Ultimately, it is considered that the principle of a single storey structure, such as a garage, that is located on the northern side boundary of this neighbouring property's garden is unlikely to result in any significant adverse impacts to their residential amenity.
- 8.39 In summary, the concerns raised by neighbouring properties have been taken into account, but it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained to ensure all concerns are appropriately addressed before the scheme can be finally approved.
- 8.40 Given the above, it is considered that the proposed development can be designed as such to be acceptable in amenity terms and in compliance with Policy DM10 of the SADMP, the Good Design Guide, and the requirements of the NPPF at the Reserved Matters Stage.

### Impact upon Parking Provision and Highway Safety

- 8.41 Section 9 of the NPPF promotes sustainable transport. Paragraph 114 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location and a safe and suitable access to the site for all users. Any proposal should ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.42 Ultimately, development should not 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, in accordance with Paragraph 115 of the NPPF.
- 8.43 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)).
- 8.44 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.45 The LHA have checked their Personal Injury Collision (PIC) database and find there have been no recorded PICs within 500m to the southwest and approximately 136m to the northeast to the junction of Main Street/ Barton Road/ Bosworth Road. However, the acceptability of the proposals is contingent on the delivery of a safe and suitable access as required by the NPPF.
- 8.46 Following the receipt of further amended plans and additional information the LHA considers that the impacts of the development on highway safety would not be unacceptable and that when considered cumulatively with other developments, the impacts on the road network would not be severe.
- 8.47 The LHA have stated that there is a need for detailed discussion on the surface treatment of the Public Right of Way, which is secured via planning condition.
- 8.48 It is considered that the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP and the adopted highway authority design guide.

### Planning Balance

- 8.49 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.

8.50 The site lies within the settlement boundary of Carlton and the proposed development is considered to be broadly consistent with the overall aims of the NPPF.

8.51 It is acknowledged that there are potential social benefits from the scheme such as providing housing for a range of occupants including families, and economic benefits associated with the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services. Although the benefits of providing two additional dwellings can only be considered limited it has been demonstrated that they outweigh any possible harms that arise which can be addressed at Reserved Matters stage.

## **9. Equality Implications**

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

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

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

## **10. Conclusion**

10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

## **11. Recommendation**

11.1 **Grant planning permission** subject to:

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

## **11.2 Conditions and Reasons**

1. An application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than 18 months 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.

2. No development shall commence until details of the layout, scale, appearance, landscaping, and access other than vehicular access (hereafter called the reserved matters) have been submitted 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).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
  - Site Location Plan 23-49-PL01 (received: 30 August 2023).
  - Proposed Site Access CH001 Issue 3 (received 16 January 2023)

**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. The development hereby permitted shall be implemented in strict accordance with the measures stated in Section 4.3 (Impact of the Proposals on Protected Species) of the Ecological Appraisal (submitted: 30.08.2023). The details of the measures to protect hedgehogs and badgers, and details of the bat roost tube, the two nest bricks/ tubes, and the hedgehog and reptile refugia should be submitted to, and approved in writing by, the Local Planning Authority. All works are to proceed strictly in accordance with the approved details.

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on the site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. Development shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Proposed Site Access, drawing number CH001 Rev 03 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 the National Planning Policy Framework (Dec 2023).

7. No part of the development hereby approved shall be occupied until such time as vehicular visibility splays of 2.4 metres by 54 metres have been provided at the site access in both directions. 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 and in the interests of general highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and in accordance with the National Planning Policy Framework (Dec 2023).

8. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

**Reason:** To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and in accordance with the National Planning Policy Framework (Dec 2023)

9. Notwithstanding the submitted plans, no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary, and should be hung to open away from the highway.

**Reason:** To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (December 2023).

10. No development shall take place until a scheme for the treatment of the Public Right(s) of Way has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include provision for their management during construction, surfacing, width, structures, signing, and landscaping in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers. Thereafter the development shall be carried out in accordance with the agreed scheme and timetable.

**Reason:** to protect and enhance Public Rights of Way and access in accordance with Paragraph 104 of the National Planning Policy Framework (December 2023).

a. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. If a Reserved Matters application is forthcoming, the Applicant should ensure that the proposal accords with Paragraphs 3.151 (Quantum), 3.165

(Dimensions), 3.200 (Garage Dimensions), and Figure DG13 (On-Site Turning) of Part 3 of the Leicestershire Highway Design Guide (LHDG) (2022).

3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaways will be subject to the approval of the Building Control Surveyor.
4. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
5. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point.
6. The Public Right(s) 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. The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
8. 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](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.
9. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.