

Planning Committee 10 October 2017  
Report of the Head of Planning and Development

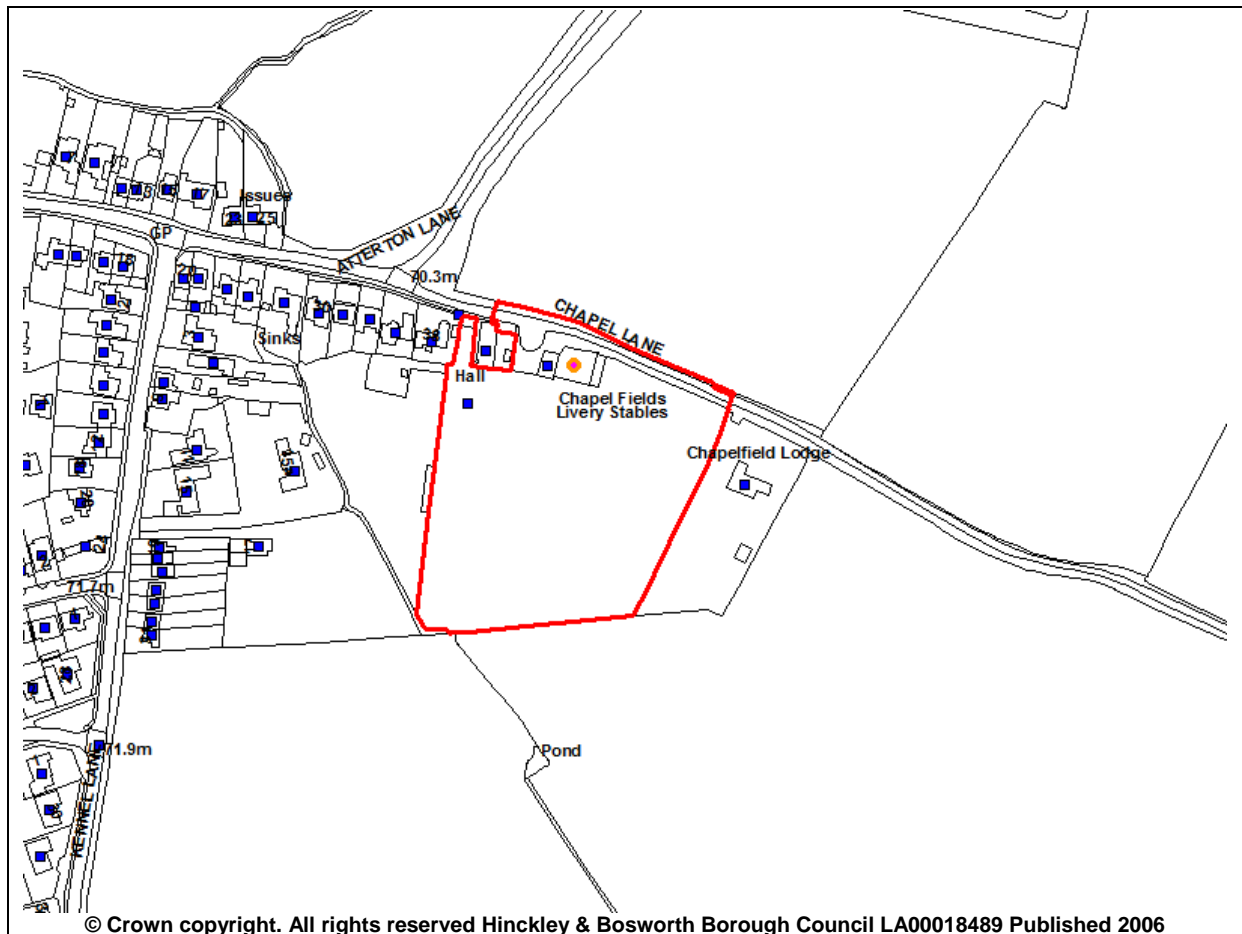


Hinckley & Bosworth  
Borough Council

Planning Ref: 15/00441/FUL  
Applicant: A R Cartwright Ltd  
Ward: Twycross Sheepy & Witherley

Site: Land South Of Chapel Fields Livery Stables, Chapel Lane, Witherley

Proposal: Erection of 10 dwellings and associated access



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**1. Recommendations**

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

**2. Planning Application Description**

2.1. This application seeks planning permission for the erection of 10 dwellings comprising a mix of 2, 3 and 4 bedroom dwellings including two affordable units. Vehicular access would be onto Chapel Lane which is an unadopted, private road beyond the parish rooms. Chapel Lane would be widened to 4.8m wide and a footpath provided along the site frontage and would narrow to 3.7m at the parish rooms.

2.2. The proposed layout includes an informal parking layout for the Parish rooms to the north western corner of the site indicating a total of 6 car parking spaces.

2.3. The application was originally submitted proposing 21 dwellings but amended plans have been submitted during the determination of the application.

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

3.1. The application site is located to the north east of Witherley, outside the settlement boundary and in the countryside. The area is primarily characterised by agricultural land with residential development in Witherley to the west. To the north, east and south of the application site is agricultural land with the exception of a single dwelling adjoining the east boundary of the site. In the north west corner of the application site is the parish rooms, a designated community facility.

3.2. The application site comprises agricultural land with two dilapidated buildings on the northern side adjoining Chapel Lane. The site is bound by a mix of hedgerow and trees and post and rail fencing. There are existing agricultural accesses onto the un-adopted section of Chapel Lane.

3.3. There is a public right of way running north to south along the western section of the application site. A large proportion of the south section of the application site is located within flood zones 2 and 3.

### 4. Relevant Planning History

97/00027/FUL	General purpose agricultural building	Permitted	05.03.1997
88/00813/4	Retention of 13 stables	Permitted	17.08.1988

### 5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

5.2. 140 representations of objection have been received; the comments are summarised as follows:

- 1) Increase traffic through the village
- 2) Increase risk of incidents at the A5 and Kennel Lane junction
- 3) Queueing at the A5 junction;
- 4) Atterton Lane and Chapel Lane junction would be dangerous;
- 5) Construction traffic would be disruptive and dangerous;
- 6) There is a public footpath across the site;
- 7) Atterton Lane and Chapel Lane flood significantly;
- 8) The application site becomes waterlogged easily
- 9) Increase existing flooding issues
- 10) There are no amenities in the village, no shop and irregular bus services;;
- 11) Loss of greenfield site when we should utilise brownfield sites;
- 12) Loss of village and landscape character;
- 13) Witherley does not need executive housing;
- 14) Inadequate sewerage system;
- 15) Loss of car parking for the parish rooms;
- 16) Outside the settlement boundary and not allocated for development;
- 17) Ecological impact
- 18) High potential for archaeological remains on the site;
- 19) Agricultural vehicles use Chapel Lane
- 20) There are two more suitable sites in Witherley for developing before the proposed;

- 21) Witherley needs more affordable housing and there are better sites.
- 22) The proposed parking area for the Parish Rooms has restricted visibility; will be used by the dwellings; would conflict with the public right of way
- 23) Due to the proximity of plots 1 and 2 this would result in a noise complaints about the Parish Rooms which could have a detrimental affect
- 24) Greenfield sites should not be developed and development should be focused upon brownfield sites and unoccupied housing
- 25) Chapel Lane is too narrow and puts the hedgerow at risk of removal which should be preserved as an ancient hedgerow
- 26) No path outside of Parish Rooms and door leads straight onto Chapel Lane increase of traffic on Chapel Lane would result in safety risks

5.3. A petition objecting to the application has been received which was signed by 155 people. The majority of signatories also made representations detailed above.

5.4. 7 representations of support have been received; the comments are summarised as follows:

- 1) It will provide housing in the village for families wishing to move to Witherley;
- 2) More housing would make the village more affordable;
- 3) Would not detract from the village;
- 4) Good access to local areas and schools;
- 5) Witherley needs housing to sustain the village community.

## **6. Consultation**

6.1. No objection, some subject to conditions, has been received from the following:

- Leicestershire County Council (Highways)
- Leicestershire County Council (Drainage)
- Leicestershire County Council (Rights of Way)
- Leicestershire County Council (Ecology)
- Leicestershire County Council (Archaeology)
- Environmental Health (Drainage)
- Environmental Health (Pollution)
- Waste Services
- Severn Trent Water
- Environment Agency
- Highways England

6.2. Arboricultural Officer – the trees to be removed near the village hall are of limited value and the oak and ash trees along the frontage are in very poor conditions and unsuitable for retention

6.3. Witherley Parish Council – object to the application; the comments are summarised as follows:

- Exacerbation of existing flooding issues and connection to an already over capacity system;
- Loss of parking to the parish rooms and associated congestion issues;
- Proposed parking for Parish Rooms is inadequate in size, will conflict with public right of way and rights of access, has poor visibility and would result in cars reversing onto Chapel Lane.
- Chapel Lane is a private road with an unrestricted speed limit and the inclusion of a chicane feature outside the parish rooms would be dangerous;
- There is insufficient car parking to serve the occupiers of the dwellings and limited access to facilities and public transport;

- The type and quantity of affordable housing does not meet the needs of Witherley;
  - The type of houses proposed are too large and do not those most required in the Borough (2 and 3 bedrooms)
  - There is insufficient information on what would happen with the remainder of the site;
  - The development would have an urbanising impact on the character of the countryside and would be contrary to the Fenn Lanes Character Area;
  - The proposed development is outside the settlement boundary;
  - HBBC have a five year housing land supply;
- 6.4. David Tredinnick MP – writes on behalf of his constituents who wish to object to the application based on the following reasons:
- Outside the settlement boundary and in the open countryside;
  - Traffic generated is likely to exceed the highway capacity and cause accidents at the A5 junction;
  - Loss of greenfield/agricultural land;
  - Planning permission has been refused for similar developments in Witherley;
  - The affordable housing does not meet the needs of Witherley;
  - The design and scale of the dwellings is out of keeping with the village;
  - There is potential for archaeological heritage assets;
  - Additional pressure on local infrastructure;
  - Increase the likelihood of flooding;
- 6.5. Leicestershire County Council (Developer Contributions) have requested the following:
- Secondary School Education - £29,853.20
  - Post 16 Education- £6,378.21

## **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 12: Rural Villages
  - Policy 15: Affordable Housing
  - Policy 16: Housing Density, Mix and Design
  - Policy 19: Green Space and Play Provision
- 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 Ecological Interest
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM10: Development and Design
  - 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) (2012)
  - Planning Practice Guidance (PPG)

## **8. Appraisal**

- 8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Planning obligations
- Ecology
- Archaeology
- Other matters

Assessment against strategic planning policies

- 8.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(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.
- 8.3. Paragraph 17 of the NPPF iterates that the core planning principles; one of which is that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- 8.4. From the most up to date figures available, as at 1 April 2017 the authority is able to demonstrate a 5.74 year housing land supply of deliverable sites within the borough and therefore the relevant policies for the supply of housing within the development plan (Core Strategy and SADMP) can be considered up-to-date in accordance with paragraph 49 of the NPPF.
- 8.5. Policy 12 of the Core Strategy seeks to support existing services in the villages listed, of which Witherley is one, by supporting housing development in settlement boundaries that provides a mix of housing types and tenures and development that complies with Policy 17: Local needs. It should be noted that this development is outside the settlement boundary and is not considered to be a Local Choice or Rural Exception Site for housing and therefore the development is not supported by the above policy considerations.
- 8.6. Policy 12 identifies that the Council will work with the Highways Agency to address identified problems with the A5/Kennel Lane junction and if these problems can be overcome, the Council will allocate land for limited housing development at Witherley.
- 8.7. The SADMP iterates that since the adoption of the Core Strategy, discussions have taken place with Highways England (formerly Highways Agency) to determine whether issues with junction capacity on the A5 can be overcome to allow for a low level of residential development in Witherley. Whilst comments were positive towards the principle of one selected site Highways England identified that access would not be a viable option for this site as the access lane is un-adopted and unsuitable for further development of this nature. As a result no residential development was allocated for Witherley.
- 8.8. The SADMP is the most up to date policy document and does not allocate development for Witherley. Therefore the site is outside the identified settlement boundary for Witherley and is within the open countryside to which Policy DM4 of the SADMP is relevant.

- 8.9. Policy DM4 states that: to protect the intrinsic value, beauty, open character and landscape character of the countryside, it will first and foremost be safeguarded from unsustainable development. The Policy sets out a list of instances where development in the countryside would be considered sustainable. New build residential development (unless it relates to the provision of accommodation for a rural worker in line with Policy DM5 – Enabling rural Worker Accommodation which this application is not for) is not included within the development that would be considered as sustainable and appropriate in the countryside and therefore the proposed development does not accord with Policy DM4.
- 8.10. The proposed development is not supported by Policy 12 of the Core Strategy and would be contrary to the spatial distribution for growth as set out in the Development Plan and would be contrary to Policy DM4 of the SADMP.

Design and impact upon the character of the area

- 8.11. Policy DM4 of the SADMP seeks to ensure development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It should be noted that as the development is not considered to be sustainable development in the countryside in accordance with the first part of Policy DM4, and therefore any harm to the intrinsic value, beauty, open character and landscape character of the countryside would be unjustified.
- 8.12. The site is located within the Fen Lanes Character Area, identified in the Landscape Character Assessment June 2006. This character area is identified as having the following key characteristics:
- Predominantly flat valley landscape with areas of gentle undulations
  - Predominantly arable with some occasional pasture
  - Small woodland clumps and willow trees associated with watercourses
  - Mixed field pattern of large to medium size with broke hedgerows. Hedgerow trees are either scattered or in clumps along roads and near watercourses
  - Small dispersed settlements clustered around cross-roads, with isolated farmsteads
  - A444 forms main route through the area with small lanes leading off and many footpaths
  - Open aspect but views are occasionally curtailed by copses, hedgerow vegetation and limited vantage points
  - Frequent streams and ditches
- 8.13. The area surrounding the application site is predominantly rural in nature with agricultural land to the north, east and south. There is primarily linear residential development fronting onto Kennel Lane and Atterton Lane to the west. The application site is largely grassland with two dilapidated buildings on the north side. The site provides a green, open, rural edge to the north east of the village. Boundary treatments around the application site comprise post and rail fencing, hedgerows and mature trees. The site is rural in nature and positively contributes to the character of the countryside and rural setting of the village.
- 8.14. A Landscape Appraisal was submitted with the original application for 21 dwellings and has not been amended to reflect the reduction in development on site. The submitted landscape appraisal concludes that the *'visual effects of the proposed development will be localised, with the more significant changes affecting near views, and occurring along a short section of Chapel Lane and from public footpath*

*T28 within the open field to the south/south-east of the site. Whilst there would be partial and glimpsed views of the development from other locations in and around the village, these are generally curtailed by the presence of intervening, existing tree and hedgerow features, and the new housing would be seen in the context of the existing buildings at this edge of the settlement.'* Additionally the report identifies that the development '*will become comfortably absorbed into this village-edge setting within the medium term timescale of around 10 years, with minimal adverse effects upon the wider landscape setting of Witherley.'* However, it must be noted that this conclusion relates to the originally submitted scheme which is significantly different to the scheme which is now proposed.

- 8.15. The proposed development would extend the built form of Witherley to the east along Chapel Lane which currently comprises a private unadopted lane. The requirement to widen Chapel Lane to facilitate the development would fundamentally and unsympathetically alter the character of the rural lane having an urbanising impact. The introduction of dwellings at depth from the road frontage would result in dwellings projecting into the surrounding countryside and would be contrary to the character of the adjacent development to the west which comprises primarily linear development fronting onto roads. Furthermore, the proposed development includes the erection of some large dwellings which would appear prominent and are not sympathetic to the rural setting.
- 8.16. The uncharacteristic nature of the development would drastically impact upon users of the public right of way which runs through the site from north to south and approaches the village from the south east across an adjacent agricultural field. The approach to the village along the public right of way would alter the perceived character of the village which is currently sympathetic to the rural character with the most eastern development along Chapel Lane comprising low forms of development and visible development fronting Kennel Lane being part of the built up area. In addition to the users of the public right of way, the development would be located adjacent to the well used Parish Rooms and therefore the extent of the change to the rural character would be impact on wider members of the community. The introduction of built form and development of larger dwellings in this location would constitute an unsympathetic intrusion into the countryside and urbanise the eastern side of the village.
- 8.17. It is considered that the proposed development would not complement the existing surrounding built form and the intrusion into the countryside would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the SADMP.
- 8.18. Policy 16 of the Core Strategy requires a mix of housing types and tenures to be provided on all sites of 10 dwellings or more taking into account the type of provision that is likely to be required by utilising Table 3 as a starting point for housing mix. Table 3 highlights that 32% should be medium and larger units and 64% should be smaller and medium units. The development proposes: 2 x two bedroom house, 6 x four bedroom house and 2 x five bedroom houses equating to 20% smaller and medium units and 80% medium and larger units. Notwithstanding the above visual impacts of having larger dwellings, whilst the housing mix is not in accordance with the starting point policy stance, it is not considered that the additional provision of larger dwellings would justify a reason for refusal having regard to the development comprising 10 dwellings.

Impact upon neighbouring residential amenity

- 8.19. Policy DM10 of the SADMP seeks to ensure that development would not have a significantly adverse effect on the privacy and amenity of nearby residents and

occupiers of adjacent buildings. The application site adjoins Chapelfield Lodge to the east and the Parish Rooms and 38 Atterton Lane to the west.

- 8.20. Plots 8 – 10 would have their rear elevations facing east towards Chapelfield Lodge. The gardens of the dwellings would be approximately 12m deep and there are existing boundary treatments prohibiting overlooking whose retention could be secured through a landscape condition. The dwellings would be sufficiently separated from Chapelfield Lodge to avoid any adverse impacts.
- 8.21. The dwellings would be in close proximity to the Parish Rooms with the rear elevations of plots 1 & 2 and front elevations of points 4 & 5 facing the building. Having regard to the use of the Parish Rooms, it is considered that the dwellings would not have an impact that would be harmful to the users of the building. Concern has been raised that the development would lead to a loss of car parking for the users of the Parish Rooms. This is not an amenity issue and is dealt with in the below section relating to the highways impacts. Additionally comments have been raised that residential dwellings within close proximity to the Parish Rooms would limit its use. No concerns have been raised by Environmental Health with regards to noise impacts upon future residential amenity and it is not considered that the dwellings would restrict the use of the Parish Rooms.
- 8.22. The proposed dwellings would be sufficiently separated from 38 Atterton Lane to avoid any adverse impacts on neighbouring amenity.
- 8.23. The proposed development would lead to additional vehicular movements through the village and in front of the dwellings fronting onto Atterton Lane. Whilst these are likely to generate some additional noise and disturbance, it is considered that the noise and disturbance would not amount to any material harm to the occupiers of the dwellings.
- 8.24. The proposed development would not have an adverse impact on the privacy and amenity of nearby residents and occupiers of adjacent buildings and is in accordance with Policy DM10 of the SADMP.

#### Impact upon highway safety

- 8.25. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.26. This application was initially submitted for 21 dwellings but has been reduced to 10 dwellings. The application was accompanied by a Transport Statement and subsequently a revised Road Safety Audit and Technical Note have been submitted.
- 8.27. Vehicular access to the site is currently via Chapel Lane which forms part of the un-adopted, private section of the road. It is proposed to widen and upgrade a section of Chapel Lane at the frontage of the site to adjoin the adopted highway of Chapel Lane adjacent to the Parish Rooms. At the Parish Rooms it is not possible to widen the road and therefore the road would narrow. Adjoining Chapel Lane would be three driveways serving individual dwellings, two shared private driveways; a turning head would be provided between plots 2 and 3 and an access to an informal parking area for the Parish Room. As Chapel Lane is a derestricted road concern has been raised over potential vehicle speeds along the road and safety due to vehicle trips. Leicestershire County Council (Highways) has raised no objection to the proposed layout, subject to conditions, but has highlighted that the road would remain private and due to ownership issues the road be unlikely to be adopted.
- 8.28. The proposed development would result in additional vehicular movements generated through the village and Strategic Highway Network. The junction of



Bridge Lane and the A5 was reviewed for upgrading but was discounted due to the inability to provide sufficient visibility. As a result, it is proposed to upgrade the junction of Kennel Lane and the A5. Significant concern has been raised by residents relating to the safety of the junction and queueing times. Initially, several concerns were raised by Highways England regarding the upgrading of the junction resulting from outstanding details. However, the submission of a revised Road Safety Audit, a document responding to the concerns raised and a Departures from Standards Report, have collectively addressed the issues. Highways England consider the junction of Kennel Lane and the A5 can be adequately upgraded to mitigate the impact of the development and therefore raise no objection subject to a condition requiring the works to the junction.

- 8.29. Concern has been raised that the application site currently provides some car parking for users of the Parish Rooms which would no longer be available should the application be approved. However, It is understood that the car parking arrangement is informal and could be restricted at any time should the landowner choose. Notwithstanding this the applicant has included an 'informal parking area' to the west of the Parish Rooms. The access to this parking area does not achieve the full vehicular splays to the right of the access, required in accordance with the 6C's Design Guide. However LCC Highways have concluded that given the likely speeds of vehicles approaching from the right the visibility is sufficient. The parking area would be shared with the public right of way, however it is considered that due to the open character of the parking area and its use only in conjunction with the Parish Rooms it would not result in a highway safety issue of conflicts with the public right of way and is acceptable. Whilst the parking area is restricted in size It is also considered that there is enough room within it to allow vehicles to manoeuvre to leave the site in a forward gear.
- 8.30. The proposal includes a minimum of two parking spaces serving the two bedroom dwellings and three parking spaces serving four and five bedroom dwellings. It is considered that the provision of car parking proposed would be sufficient to serve the occupiers of the dwellings.
- 8.31. There is a public footpath (T28) running across the application site. The proposal does not propose to alter the line of the public footpath.
- 8.32. It is considered that the proposed development would not have an adverse impact on vehicular or pedestrian safety and would provide sufficient car parking for the occupiers of the development. The development is in accordance with Policies DM17 and DM18 of the SADMP.
- 8.33. Flood risk and drainage
- 8.34. Policy DM7 of the SADMP seeks to ensure that surface water and groundwater quality are not adversely impacted by new development and that it does not exacerbate flood risks.
- 8.35. Significant concern has been raised by residents regarding existing flooding issues in and around the application and Witherley.
- 8.36. This application was initially submitted for 21 dwellings with a large proportion of the site being within flood zones 2 and 3. Leicestershire County Council (Drainage) requested that hydraulic modelling be undertaken due to the potential associated risks of flooding from surface water and Witherley Brook which is located close to the south western corner of the site. Following the modelling the area to be developed and number of dwelling proposed was reduced to 10.
- 8.37. Development within the application site is now wholly within flood zone 1 and a therefore at low risk from fluvial (river) flooding. Finished floor levels of 600mm

above ground level and access routes of 300mm above flood level area proposed to ensure acceptable level of flood resilience which shall be secured through a planning condition A preliminary surface water drainage strategy has been submitted to demonstrate that the development would not result in additional surface water runoff and therefore would not exacerbate existing flooding issues in the surrounding area. Environmental Health (Drainage), Leicestershire County Council (Drainage), Severn Trent Water and the Environment Agency have been re-consulted on the application since initially submitted and raise no objection subject to the imposition of planning conditions.

- 8.38. It is considered that, subject to conditions, the proposed development would not exacerbate or create flood risk on or off the site and is in accordance with Policy DM7 of the SADMP.

#### Planning obligations

- 8.39. Policy DM3 of the SADMP seeks to ensure that where development creates a need for additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism. The planning practice guidance states that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. The dwellings have a combined gross floorspace in excess of 1,000 square metres and therefore the contributions in accordance with policies in the Development Plan are sought.

- 8.40. A viability appraisal has been submitted with the scheme, which has identified that a scheme with 40% Affordable dwellings (4 dwellings) would not be viable and the development can only deliver 20% (2 dwellings). However the viability appraisal does not contest any other planning obligations. Policy DM3 of the SADMP states that where because of physical circumstances of the site and/or prevailing and anticipated market conditions, a developer can demonstrate that the viability of a development proposal affects the provision of affordable housing and/or infrastructure provision, the Council will balance the adverse impact of permitting the scheme on the delivery of such provision with any identified planning benefits of the scheme.

#### Green space and play provision

- 8.41. Policy 19 of the Core Strategy requires new residential development to contribute towards the provision and maintenance of public play and open space facilities where there is an existing deficiency. There is an identified deficiency in quality of equipped children's play space, casual/informal play space and outdoor sports provision at Witherley Memorial Playing Field which is within a reasonable distance of the site. Therefore, the following contributions are sought:

- Equipped Children's Play Space @ Witherley Memorial Playing Field - £5,222.88 (provision) & £2,545.20 (maintenance)
- Casual/Informal Play Space @ Witherley Memorial Playing Field - £1,034.88 (provision) & £890.40 (maintenance)
- Outdoor Sports Provision @ Witherley Memorial Playing Field - £5,283.84 (provision) & £5,068.80 (maintenance)

- 8.42. There are no designated natural green spaces within a reasonable distance of the site and therefore a contribution will not be sought towards improving accessibility to this type of facility.

- 8.43. The above contributions are considered to be CIL compliant and should be secured through a S106 agreement prior to determination

## Education

- 8.44. Leicestershire County Council (Education) has been consulted and requested the following contributions:
- 8.45. The site falls within the catchment area of Witherley C of E Primary School. The School has a net capacity of 105 and 113 pupils are projected on roll resulting in a deficit of 8 pupil places. In order to provide the additional primary school places anticipated by the proposed development, the County Council requests a contribution for the primary school sector of £29,037.62 to be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Witherley C of E Primary School.
- 8.46. The site falls within the catchment area of Market Bosworth School. The School has a net capacity of 695 and 774 pupils are projected on roll resulting in a deficit of 79 pupil places. In order to provide the additional 11-16 school places anticipated by the proposed development, the County Council requests a contribution for the 11-16 school sector of £29,853.20 to be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Market Bosworth School.
- 8.47. The nearest Post 16 education facility to the site is Bosworth Academy. The College has a net capacity of 203 and 307 pupils are projected on roll resulting in a deficit of 104 pupil places. This development would account the 1 pupil generated. In order to provide the additional post 16 school places anticipated by the proposed development, the County Council requests a contribution for the post 16 school sector of £6,378.21. The contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Desford Bosworth Academy.
- 8.48. The above contributions are considered to be CIL compliant and should be secured through a S106 agreement prior to determination

## Affordable housing

- 8.49. Policy 15 of the Core Strategy expects a proportion of affordable housing to be provided on eligible sites. The starting point for the level and target for affordable housing in rural areas is 40% on sites of 4 dwellings or more.
- 8.50. The viability appraisal identifies that the scheme would be unviable if the development delivered 4 affordable dwellings. The viability appraisal has been independently assessed for the council and has concluded that the scheme cannot deliver 4 affordable dwellings, however 2 could be achieved.
- 8.51. Following discussions with the Housing Strategy and Enabling Officer it is considered that a registered provider would not be willing to accept 2 affordable dwellings within this location. It is therefore considered in this instance that an off site commuted sum would be appropriate.
- 8.52. A sum of £60,962.38 has been agreed as a commuted sum towards affordable housing. Following advice from the independent assessment of the viability appraisal it is considered that this sum is appropriate and acceptable for this scheme.
- 8.53. A heads of terms has been submitted identifying the above contributions. Therefore the applicant is willing to enter into a Section 106; however this has not been pursued as the application is recommended for refusal.

## Ecology

- 8.54. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation.

- 8.55. An ecological appraisal and reptile survey have been submitted with the application. The appraisal finds that there may be some potential for bat foraging in and along the site boundaries and that some trees have moderate potential for bat roosts although these are not impacted by the proposed development. The reptile survey concludes that reptiles are likely to be absent from the site. Leicestershire County Council (Ecology) has raised no objection to the proposed development and confirmed no additional surveys or works are required.
- 8.56. It is considered that the proposed development would not have an adverse impact on any features of nature conservation and is in accordance with Policy DM6 of the SADMP.

#### Archaeology

- 8.57. Policy DM13 of the SADMP state that where a proposal has potential to impact on a site's archaeological interest, developers should set out in their application an appropriate desk-based assessment. Developments should preserve archaeological remains in situ or, where not feasible and fully justified, undertake full investigation and recording of remains.
- 8.58. A desk based assessment has been submitted with the application which confirms that the site is located within an area of good potential for the presence of Roman archaeological remains. Leicestershire County Council (Archaeology) recommends that an initial phase of exploratory trial trenching be undertaken, specifically targeting those areas to be impacted by the development proposals, with a further phase of mitigation to be informed by the results of the trenching. The further investigation can be secured through the imposition of a planning condition.
- 8.59. Subject to further investigation, it is considered that the proposed development would adequately preserve, or investigate and record, archaeological remains in accordance with Policy DM13 of the SADMP.

#### Other matters

- 8.60. Concern has been raised that the existing sewerage system serving the area is insufficient to be able to accommodate the proposed development. Severn Trent Water has raised no objection to the development subject to a condition requiring the submission of foul water drainage details.

### **9. Equality Implications**

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

### **10. Conclusion**

- 10.1. The application site is outside the settlement boundary of Witherley and within the countryside. The proposed development is not supported by Policy 12 of the Core

Strategy and would be contrary to the spatial distribution for growth as set out in the Development Plan and would be contrary to Policy DM4 of the SADMP.

- 10.2. By virtue of the location, layout and scale, the proposed development would not complement the existing surrounding built form and would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the SADMP.
- 10.3. The proposed development would not deliver sufficient on-site affordable housing in accordance with Policy 15 of the Core Strategy; however viability details have been submitted which identify that the proposed commuted sum is acceptable in this instance. Open space and education contributions are also sought for the impact of the development upon local infrastructure in line with Policy DM3 of the SADMP.
- 10.4. Notwithstanding the above, the proposal would not have an adverse impact on neighbouring amenity, highway safety, flood risk, ecology nor archaeology.

## **11. Recommendation**

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

### **11.2. Reasons**

1. The proposal would result in unsustainable residential development in the designated countryside outside the settlement boundary of Witherley. The proposal would fail to complement or enhance the intrinsic value, beauty, undeveloped rural character of the countryside and the rural setting of the village. The proposal is therefore contrary to Policy 12 of the Core Strategy (2009) and Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).
2. By virtue of the location, layout and scale, the proposed development would not complement the existing surrounding built form and would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).

### **11.3. Notes to Applicant**

1. This application has been determined based on the submitted: amended application form, archaeological desk based assessment, ecological appraisal and reptile survey, Stage 1 Road Safety Audit rev 1, Departures from Standards Report, Trip Distribution Technical Note, Technical Note: Response to Local Highway Authority Consultation Comments, Flood Risk Assessment and the following drawings:
  - 13/126 29C - Site Location Plan (received on 10.05.2017)
  - RC100-BWB-EWE-XX-DR-EN-0013 S2 P6 – Outline Surface Water Drainage Strategy (received on 10.05.2017)
  - 13/126 17D – HT E – Plans / Elevations (received on 10.05.2017)
  - 13/126 19G – HT G – Plans (received on 10.05.2017)
  - 13/126 35K – Site Plan (received on 25.09.2017)
  - 13/126 36A – Nightingale (received on 10.05.2017)
  - 13/126 37 – Merlin (received on 10.05.2017)
  - 13/126 38 – HT E – Plans / Elevations Handed (received on 10.05.2017)
  - 13/126 40 – Garage (received on 10.05.2017)
  - 08/124 39 – plots 1-2 (received on 10.05.2017)
  - KL.350.001 Rev A – Soft Landscaping Proposal (received on 25.09.2017)