

Planning Committee 9 January 2018
Report of the Planning Manager, Development Management

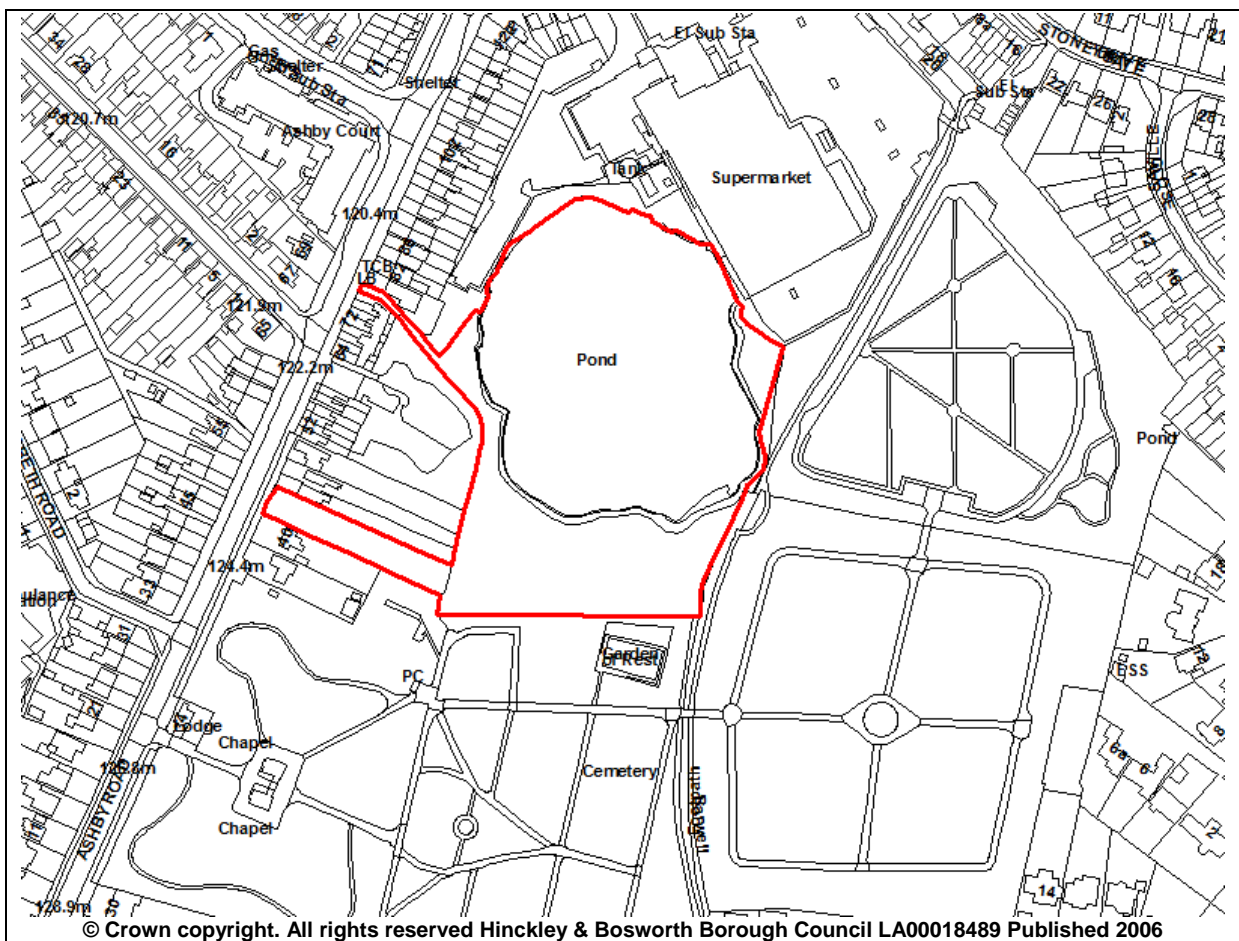


Hincley & Bosworth
Borough Council

Planning Ref: 17/00765/FUL
Applicant: Orbit Group Ltd
Ward: Hinckley DeMontfort

Site: The Big Pit Land To The Rear Of 44 To 78 Ashby Road Ashby Road,
Hinckley

Proposal: Erection of 60 dwellings including engineering infill operation and
associated works



1. Recommendations

1.1. Grant planning permission subject to

- The prior completion of a S106 agreement to secure the following obligations:
 - 100% affordable housing
 - Play and open space plan and maintenance scheme
 - Sustainable surface water drainage system maintenance scheme
- Planning conditions outlined at the end of this report.

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

- 1.3. That the Planning, Manager Development Management be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

2. Planning Application Description

- 2.1. This application seeks planning permission for engineering works to infill the existing former quarry site, known locally as The Big Pit, reinstatement of the Sunnyside Brook and the erection of 60 affordable dwellings with associated infrastructure.

3. Description of the Site and Surrounding Area

- 3.1. The application site is located within the settlement boundary of Hinckley. The area in which the site is located has a mix of uses. The site is bound to the north by a supermarket, Asda, with the rear elevation and compound adjoining the site, to the east and south by Ashby Road Cemetery and to the west by primarily residential development.
- 3.2. The application site comprises a former clay pit on the northern side of the site which has created a water body. The southern side of the site comprises a large area of vegetation and scrub land and to the west there is an overgrown area of land which was formerly a dwelling but has been demolished and been left to become overgrown.
- 3.3. The southern side of the application site is safeguarded as an allocation for residential development. The northern side of the site comprising the body of water is allocated as semi-natural/natural open space.
- 3.4. Adjoining the eastern boundary of the application site is a public footpath.

4. Relevant Planning History

17/01180/C	Approval of the following reserved matters: Appearance, Landscaping, Layout and Scale for the importation of material and in - fill engineering works to former clay pit to enable residential development (County Council Ref: 2017/0328/LCC)	Pending consideration	
13/00862/C	Outline application (access only) for residential development, including the importation of material and in - fill engineering works to former clay pit to enable residential development - Land rear of 42, Ashby Road (County Council Identity Number: 2013/CM/0299/LCC)	Refused Allowed on appeal	13.11.2013 04.12.2014
12/00885/GDOD	Demolition of detached dwelling and garage	Approved	19.11.2012
12/00950/EXT	Extension of time for extant outline planning permission 09/00778/EXT for outline residential development (05/00684/out)	Approved	13.06.2013
09/00778/EXT	Extension of time for extant planning permission 05/00684/out	Approved	11.01.2010

	for outline residential development		
05/00684/OUT	Residential Development	Refused Allowed on appeal	07.12.2005 30.01.2007

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. 26 representations of objection have been received, the comments are summarised as follows:
- 1) The pit is fed by underground springs
 - 2) The Big Pit is connected to The Little Pit which is a protected site
 - 3) There will be flooding issues if the pit is filled in
 - 4) Who will be liable for future flooding
 - 5) Orbit have not answered questions from residents following their consultation
 - 6) There are bats, crayfish and otters present on the site
 - 7) The site should be protected as a wildlife site
 - 8) Asda regularly floods
 - 9) Loss of amenity of neighbours during construction
 - 10) Significant highway impacts from increased vehicular movements
 - 11) Increased demand on local infrastructure
 - 12) There is no need for additional housing in the area
 - 13) Loss of a local heritage asset
- 5.3. A petition containing 1700 signatures was submitted to the case officer which referred to concerns with the development of the site and a wish to compulsory purchase the site for community use. The petition does not specifically refer to this planning application or material planning considerations. Therefore, the petition has not been accepted in relation to this planning application and has been considered by Full Council under the petitions scheme.

6. Consultation

- 6.1. No objection, some subject to conditions, has been received from the following:
- Environmental Health (Pollution)
 - Environmental Health (Drainage)
 - Affordable Housing Officer
 - Waste Services
 - Conservation officer
 - Leicestershire County Council (Minerals)
 - Leicestershire County Council (Drainage)
 - Leicestershire County Council (Ecology)
 - Leicestershire County Council (Highways)
 - Environment Agency
- 6.2. County Cllr Mullaney – objects to the application for the following reasons:
- 1) Increased risk of flooding
 - 2) The 27 stringent conditions from the previous appeal decision should be imposed and
 - 3) The site is unsuitable for housing
- 6.3. As a result of the Developer Contribution consultation, the following planning obligations are sought:

Leicestershire County Council (Education):

- Primary education - £174,225.74

Leicestershire County Council (Libraries) - £1,800

Leicestershire County Council (Civic amenity) - £2972

West Leicestershire Care Commission Group - £17,330.40

7. Policy

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- 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 SA1: Safeguarding Site Allocation
- 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 DM9: Safeguarding Natural and Semi-Natural Open Spaces
- 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) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Procedural note
- Site history
- Principle of development
- Affordable housing
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage and flood risk
- Ecology and biodiversity
- Contamination
- Green space and play provision
- Planning obligations
- Viability
- Conditions
- Other matters

Procedural note

- 8.2. This application was presented to the planning committee on Tuesday 5 December. At the meeting Members raised a number of concerns about the potential impact of

the site. These included loss of open space, its non-viability, overdevelopment, loss of amenity, noise/vibration, unsustainability and several members indicated that they would propose refusal of the application.

8.3. In response, officers emphasised the following:

- That the site had an extant outline planning permission for residential development together with the infilling of the pit which had been granted on appeal in December 2014 and which was a significant material planning consideration which established the loss of the open space, along with the filling of the pit and redevelopment of the site for residential use
- That Leicestershire County Council had refused the appealed application in 2014 and had had costs awarded against it for not pursuing one of the reasons for refusal in relation to flood risk
- That the main considerations relating to the development of the site, namely drainage and flooding, highway safety and traffic movement, nature conservation interests and amenity (as a result of the proposed engineering works) had been taken into account by the Inspector at the 2014 appeal who considered that, subject to appropriate safeguards and mitigation measures which would be secured by conditions, the development would not unacceptably worsen the living conditions of neighbours or future residents and it would not adversely affect nature conservation interests
- That these same considerations applied in relation to the current application and the same conditions imposed by the Inspector would be re-imposed leading to the same conclusion on the impact of the development
- That, specifically and significantly, no objections to the current proposal had been received (subject to the imposition of appropriate conditions) from the following statutory and other consultees:
 - Environment Agency
 - Leicestershire County Council (drainage)
 - Leicestershire County Council (highways)
 - Leicestershire County Council (Ecology)
 - HBBC Environmental Health (pollution)
 - HBBC Environmental Health (drainage)
- That the proposal was for the provision of 100% affordable housing which itself was a significant policy consideration for the committee
- That there were no substantive and material planning grounds for refusing the application and that a refusal would be likely to be lost on appeal with a consequent award of costs against the council.

8.4. Notwithstanding this advice and recommendation from officers, refusal of the application was proposed by Councillor Kirby and seconded by Councillor Hodgkins. The committee was advised that, in accordance with paragraph 2.12 of the Planning Committee procedure rules, any such motion shall be deemed to be a motion of "minded to refuse" and that consideration of the application would be deferred to the next meeting of the committee. A recorded vote was taken and the motion of 'minded to refuse' was carried.

- 8.5. In accordance with the above, this application is being presented to the planning committee for a second time. It should be noted that, subsequent to the last planning committee, an additional response has been received from Leicestershire County Council (Drainage) which is detailed at paragraph 8.51.

Site history

- 8.6. The site has an extensive history including an expired planning permission for residential development to the south of the pit with access onto Ashby Road. Subsequently, outline planning permission was granted (2013/CM/0299/LCC) for infilling of the pit and residential development of up to 60 dwellings on the same site which is still extant.
- 8.7. The extant outline planning permission was initially determined by Leicestershire County Council as the Local Planning Authority ref: 2013/0862/04. The application was recommended by the planning officer for approval but it was subsequently refused by the planning committee. An appeal was made against the refusal and the appeal was allowed on 4/12/14 and permission granted subject to conditions and a S106 agreement. An award of costs was made against the County Council for unreasonable behaviour in not substantiating a reason for refusal.
- 8.8. The extant outline planning permission was due to expire on 4 December 2017 unless a reserved matters application was made to the Local Planning Authority which in this instance is the County Council. The applicant has provided confirmation that a reserved matters application has been submitted and has been validated by the County Council. In accordance with condition 3 of the appeal decision, the permission will remain extant unless the development has not begun within two years from the date of approval of the last of the reserved matters to be approved.
- 8.9. The extant permission for housing is a key material consideration in the determination of this application. This extant permission established the principle of infilling the pit and redeveloping the site for residential development. This current application therefore needs to be considered in light of the detail of how this would be achieved.

Principle of development

- 8.10. The Core Strategy identifies Hinckley as a sub-regional centre which provides key transport links to nearby centres, a mix of retail, employment and leisure facilities. Policy 1 of the Core Strategy identifies that 1120 residential dwellings will be provided within Hinckley over the development plan period 2006-2026.
- 8.11. The southern section of the site adjacent to the pit is designated for residential development through allocation HIN26PP. Policy SA1 of the Site Allocations and Development Policies DPD (SADMP) states that sites identified as having planning permission will be safeguarded as an allocation for the same land use(s) and quantum of development in the event that planning permission expires.
- 8.12. The pit and land immediately adjoining it is identified in the SADMP under allocation HIN111 as natural and semi-natural open space and open space and amenity green space. Policy DM8 of the SADMP states that planning permission will not be granted for proposals resulting in the loss of areas of open space unless the proposal meets the exemptions as set out in the policy. Policy DM9 of the SADMP states that all development within or affecting natural and semi-natural open space should seek to retain and enhance the accessibility of the space and its recreational value whilst enhancing the biodiversity and conservation value.
- 8.13. Although, without further consideration, the proposal would result in a loss of open space protected by Policies DM8 and DM9 of the SADMP, There is, significantly,

and materially, an extant planning permission on the site for infilling of the pit and residential development for up to 60 dwellings. The acceptability in policy terms of the loss of this open space has therefore already been established as a result of this extant planning permission. The extant planning permission and the provisions of Policy SA1 are significant material planning considerations and it is considered that they should be given significant weight in a consideration of the relevant policies relating to this site; Officers' view is that these material considerations outweigh the allocation of the site under HIN 111.

- 8.14. The principle of residential development of this site has been established by the extant planning permission (2013/CM/0299/LCC), which is a significant material consideration in the determination of this application. The principle of residential development is therefore acceptable.

Affordable housing

- 8.15. Policy 15 of the Core Strategy states that to support the provision of mixed, sustainable communities, a minimum of 2090 affordable homes will be provided in the borough from 2006 to 2026. Policy 15 requires that for all sites, the tenure split will be 75% social rented and 25% intermediate housing. These figures may be negotiated on a site by site basis.
- 8.16. This development proposes 60 dwellings on the site with an even split between social rented and intermediate tenure. Discussion between the Registered Provider and the Local Planning Authority has resulted in agreement of the tenure mix on-site. Whilst the tenure is not consistent with the 75% social rented and 25% intermediate housing split starting point as set out in Policy 15, it is the preferred option for this specific site to enable the scheme to be delivered and therefore is in accordance with Policy 15.
- 8.17. Developments in Hinckley meet the needs of housing applicants for the entire Borough and the section 106 agreement will include provision for the allocation of dwellings in accordance with the Council's Housing Allocations Policy.
- 8.18. The proposed development would make a significant contribution towards meeting the identified affordable housing needs of the Borough over the plan period in accordance with Policy 15 of the Core Strategy.

Design and impact upon the character of the area

- 8.19. 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.
- 8.20. Policy 16 of the Core Strategy requires a mix of housing types and tenures to be provided taking into account the type of provision that is likely to be required.
- 8.21. The proposal comprises residential development on the central and western side of the site and reinstatement of a watercourse on the eastern side of the site.
- 8.22. The residential development on the site would comprise a mix of two and three bedroom semi-detached and terraced houses. The residential development bounding the site to the west comprises primarily semi-detached and terraced houses with a mix of garden sizes. The proposed residential development would be characteristic of the surrounding built form. However, the development would be sited to the rear of the adjoining development along a long access and would be interpreted in a different context to the Ashby Road frontage. There is proposed to be a footpath through the site adjoining the public footpath to the east of the site and therefore it is important to ensure the development has a strong character and streetscapes in its own right.

- 8.23. The mix of housing types is generally in accordance with the requirements of Policy 16 of the Core Strategy. The density of dwellings per hectare is 27.39 which is below the 40 dwellings per hectare sought by Policy 16. However, the policy identifies that there may be site specific circumstances to justify a lower density. In this instance, due to the land required for the reinstatement of the watercourse, a lower density is acceptable and is in accordance with the extant outline planning permission.
- 8.24. The scheme proposes development along one arterial road through the site from north to south with three secondary roads adjoining from east to west. The secondary roads are likely to comprise a shared surface. The layout has been designed and amended to provide strong streetscapes to the site access, arterial road and southern secondary road where there are public routes through the site from the adjoining public footpath and fronting onto the reinstated watercourse. Corner plots have been designed to incorporate a mix of dual-fronted house types and semi-detached houses following the curvature of the road. The design of the dwelling is varied with a mix of materials of render and red brick, differing architectural features and porch types and important nodal plots have chimneys. The variation in design would provide interest to the streetscape and avoid monotony.
- 8.25. A landscape strategy plan has been submitted. The plan provides an overarching concept for the soft and hard landscaped area. The overall concept areas appear to be acceptable although full details will be secured through a planning condition. Where there are larger areas of hard landscaping for car parking these should incorporate differing materials to avoid the hard surfacing to become dominating. Boundary treatments forming part of the street scene shall be of a high quality and close boarded fence should be avoided where possible.
- 8.26. The site contains several mature trees, primarily along the southern boundary, and mature hedgerows. An arboricultural impact assessment has been submitted identifying that five trees need to be removed to facilitate the development; these are located along the southern boundary adjacent to the access and amenity spaces of the proposed dwellings. The trees have been categorised as B2 trees as a result of their cumulative contribution and their loss is not favourable. However, it is not feasible to retain the trees due to their impact on future occupiers and a revised layout would not result in an efficient use of the site. Several trees across the site would be retained as well as replacement planting proposed. Therefore, it is considered that the loss of the trees is acceptable. A tree protection plan during construction has been submitted which shall be secured through a planning condition.
- 8.27. The watercourse on the eastern side of the site would provide an area of natural open space and would be planted with native species to encourage biodiversity. The area of open space would retain a landscaped buffer between the development and the footpath to the east of the site. Some play and open space equipment, comprising timber play stations, will be provided along the eastern side of the residential development fronting the watercourse and to the south east corner adjoining the public footpath so it can be utilised by the occupiers of the development and users of the footpath.
- 8.28. The proposed development would complement the character of the surrounding area, provide high quality streetscapes and open space and a mix of dwelling types. It is considered that the development is in accordance with Policy 16 of the Core Strategy and Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.29. Policy DM10 of the SADMP seeks to ensure that developments do not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise vibration and visual intrusion. Additionally, the policy seeks to ensure that the amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site.

Infill, engineering and construction works

- 8.30. A noise assessment has been submitted in support of the application. The application details the likely noise implications from the various works and their potential impacts on neighbouring amenity. At present, and as per the extant outline planning permission, the specific details of the operations and plant and equipment are not yet available. When assessing the extant outline planning permission the inspector considered that the works would not have a significant adverse impact on neighbouring amenity and imposed a set of conditions in relation to the infilling and engineering works. In addition to noise, the inspector considered matters in relation to dust and vibration. As the specific details of the works have not progressed beyond that of the extant outline planning permission, it is considered reasonable and necessary to impose the previous conditions to any permission granted pursuant to the current application. Environmental Health (Pollution) has raised no objection subject to the imposition of the previously imposed planning conditions.

Future occupiers

- 8.31. The northern boundary of the site adjoins Asda. The submitted noise impact assessment identifies noise sources that could be harmful to neighbouring amenity if not mitigated. The noise sources include air handling units, louvres and the service yard. It is considered that the noise impacts can be adequately mitigated. Acoustic fencing would need to be provided adjoining the service yard and would be approximately 3m high. The acoustic fencing would be located in rear gardens and therefore would not adversely impact on the street scene. The dwellings have sufficiently deep gardens to avoid an adverse impact on the outlook from habitable rooms. The louvres are located approximately 4m above ground level where an acoustic fence alone would have an unacceptable appearance due to the required height. In this instance, an earth bund could be used to provide additional height and a shorter acoustic fence provided above. It is not possible at this stage to determine the exact details of the mitigation measures as the exact finished ground and floor levels are not yet known. Therefore, a scheme for the protection of future occupiers will be secured through a planning condition.
- 8.32. The proposed development provides a good level of private amenity space for each dwelling and there are no concerns with overlooking or intervisibility between plots.
- 8.33. The proposed dwellings would be sufficiently separated from adjoining neighbouring residential properties to avoid adverse impacts with regards to overlooking, overbearing and overshadowing. The inspector for the extant outline planning permission considered the noise impact of the access road for 60 dwellings on the adjoining neighbouring properties and concluded that there would be no adverse impact resulting from noise and disturbance. This is a material consideration which must be taken into account and it is considered that the previous conclusion regarding the impact of the access upon existing residents has not changed for this application.
- 8.34. Subject to the imposition of planning conditions, the proposed development would not have an adverse impact on the amenity of occupiers of neighbouring properties and would provide future occupiers of the development with a good level of

amenity. The proposed development is considered to be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.35. 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.
- 8.36. A transport statement has been submitted with the application to assess the potential highway impact of the proposed development during both the infill and construction stages and permanent residential use.
- 8.37. The application proposes 5.5 metre wide adoptable road adjoining Ashby Road in the location where No.42 Ashby Road previously stood. It is proposed to construct a right hand turning lane on Ashby Road to avoid inhibiting the free flow of traffic in a northerly direction. A bell mouth junction is proposed with kerb radii measuring 8m on each side. During construction a footpath will only be provided on one side to allow a temporary larger radii to accommodate HGVs. Leicestershire County Council (Highways) has confirmed that the access is suitable for the construction phases of the development and the residential development in perpetuity.
- 8.38. A construction management plan has been submitted providing details of the control of traffic during the infilling phases of the development. HGV movements along the access road will be limited to one vehicle at a time and would be controlled by a banksman. The amount and type of HGV movements associated with the infill phase shall be limited to 75 deliveries of material per day as agreed acceptable for the extant outline planning permission and as detailed in the Construction Management Plan. The construction management plan has been considered by LCC (Highways) who consider the details acceptable in relation to the requirements for sweeping of the roads, the access/egress being left turn only, a maximum of 75 HGV deliveries per day Monday to Friday between 08:00 and 16:00, the use of a banksman and maintenance of the adjacent highway to avoid mud and deleterious material entering the highway. Additional information has been requested in relation to constructor and visitor on-site parking and turning facilities during both the infill and construction phases. This information has not yet been provided and therefore a condition should be imposed to secure the details prior to commencement of development as per the extant outline permission.
- 8.39. The internal roads are proposed to be built to adoptable standards excluding the most northerly road located off the central road. LCC (Highways) have raised no objections to the overall layout of the development subject to condition and has confirmed the roads, where proposed, would meet adoptable standards.
- 8.40. Two car parking spaces are proposed per dwelling with the exception of eight of the two bedroom properties which would be served by one car parking space. The reduction of car parking on eight plots to a single car parking space each is a result of the location of the dwellings i.e. fronting onto the bend near the access or fronting the reinstated watercourse. In some cases, it may be possible to achieve an additional space but this would result in large areas of hardstanding which would significantly adversely impact on the character of the street scene. Having regard to the location of the site within Hinckley with good access to facilities and services on foot and by cycle as well as access to public transport, it is considered that the reduction on eight plots to one car parking space for two bedroom dwellings is acceptable.
- 8.41. It is considered that the proposed development would not have a significant adverse impact on highway safety during the infill and construction phases or during the residential occupation of the dwelling. The internal layout of the site is generally

acceptable subject to minor changes. The level of car parking is considered acceptable having regard to the location, type of housing and availability of alternative transport methods. The proposed development, subject to conditions, is considered to be in accordance with Policies DM17 and DM18 of the SADMP.

Drainage and flood risk

- 8.42. 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 create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against in line with National Policy.
- 8.43. Paragraph 101 of the NPPF states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding. The principle of development has been established through the extant outline planning permission which is a significant material planning consideration. Therefore, the undertaking of a sequential test is not required in this instance.
- 8.44. A large proportion of the site comprises a former clay pit which is presently filled with water. The body of water is fed by an existing ditch and there is an existing 150mm piped watercourse which flows from the northern edge of the clay pit away from the site within the Asda car park. An outline drainage strategy has been provided for the site incorporating the reinstatement of the watercourse.
- 8.45. It is proposed to reinstate the Sunnyside Brook watercourse on the eastern side of the site. Surface water from the site would outfall into the watercourse and would flow into the culverted watercourse underneath Asda to the north of the site. The extant planning permission required the culvert under the Asda car park to be upgraded to allow for the volume of water; it is unclear if these works have already been undertaken separately to the application and therefore a condition is proposed to secure the upgrading of the culvert prior to construction of the dwellings. Notwithstanding the upgrading of the culvert, it is proposed to control the outflow of water into the culvert through the use of a hydro brake and provide water storage within the site. Water storage would be provided surrounding the reinstated watercourse by way of a floodplain attenuation basin.
- 8.46. The Environment Agency has commented on the application in relation to the drainage and infilling of the pit and reinstatement of the watercourse. The EA has raised no objection to the proposed development subject to the imposition of planning conditions. The planning conditions they recommended imposing are the same requirements as were imposed on the extant outline planning permission by the planning inspector in relation to the following:
- A detailed scheme for the reinstatement of the Sunnyside Brook and its floodplain corridor
 - The upgrading of the culverted watercourse beneath the Asda car park
 - A construction method statement to cover channel and bank works including details of the temporary diversion of the existing watercourse
 - Finished floor level requirements
- 8.47. In addition to the above conditions imposed on the extant outline permission, the EA has recommended a condition for a biodiversity method statement to be submitted. The method statement shall deal with the treatment of any

environmentally sensitive areas, their aftercare and maintenance which would include impacts upon the 'Little Pit'.

- 8.48. Concern has been raised that the draining of The Big Pit could impact upon the waterbody known as The Little Pit. However, the EA have confirmed that the waterbodies are not connected. The EA have commented that:

'The Environment Agency are satisfied that the two pits (the Big Pit and the small protected pit) are not connected via an underground waterway or otherwise.

Groundwater held within the Secondary and Undifferentiated Aquifers beneath the proposed site is water held within a permeable layer of rock or other consolidated materials.

The "Little Pit" is to the northeast of the "Big Pit" and cuts through different geology to that of the "Big Pit". The "Little Pit" intersects the Wolston Sands and Gravels, which is classified as a Secondary A aquifer. The "Little Pit" is therefore anticipated to be linked to the levels of groundwater within the Wolston Sands and Gravels and be fed by springs from these deposits.

It is not considered to be in hydraulic continuity with the "Big Pit", which is located on different geology (Wolston Clay).'

- 8.49. Leicestershire County Council (Drainage) has commented on the application primarily in relation to the drainage associated with the surface water drainage required for the dwellings following the infill works. LCC (Drainage) has raised no objections to the proposed development subject to conditions; in addition to those recommended by the EA. These conditions require a surface water management plan, a construction surface water management plan and sustainable urban drainage maintenance scheme.

- 8.50. With regards to the long term maintenance of the reinstated watercourse and compensatory flood storage area, it is not possible for the Borough Council to calculate an accurate contribution towards the long term maintenance of the sustainable urban drainage features on-site which would allow them to request a right to adopt the space following the works. Therefore, the Borough Council will not seek to adopt the feature and an associated maintenance contribution is not sought. A condition is recommended which requires the submission of details in relation to the long term maintenance of the sustainable surface water drainage system. The submitted details would need to be approved by the local planning authority and implemented in perpetuity by a management company appointed, and paid for, by the applicants/owners. To enable easier enforcement of the approved maintenance scheme, it is considered reasonable and necessary to secure the maintenance scheme through a S106 agreement.

- 8.51. Concern has been raised that the pit is fed by springs and some documentation has been provided. The documentation refers to a spring on the west of Ashby Road and a streamlet along Barwell Lane. The EA were consulted on the submitted evidence and concerns and responded as follows:

'The Environment Agency are satisfied that the Flood Risk Assessment identifies all tributaries and inflows into the Big Pit.

The Big Pit has been excavated into the superficial deposits of the Wolston Clay. This is classified as an Unproductive strata, meaning that it does not contain significant quantities of groundwater. Any groundwater encountered in these deposits are likely to be confined to

pockets and lenses of granular material within the clay; these would not be representative of or linked to the regional groundwater levels.

As such, it is not considered that there are any tributaries or inflows into the pit. The Big Pit is considered to have been effectively acting as a sump at the base of the natural depression, slowly filling from rainfall and surface run-off.

8.52. Leicestershire County Council (Drainage) as the lead local flood authority were also consulted on the additional information and made the following comments:

- The site (being an old clay brick works) according to the BGS mapping is over clay with no readily productive superficial deposits.
- The Flood Risk Assessment (FRA) accounts for inflows from a spring to the south. This area to the south has superficial deposits of sands and gravels and as such assumed that perched water over the clay is issuing from this point.
- No evidence of other springs in the immediate area has been found on current or available historical mapping.
- The letter from 'The Big Pit Resistance Group' notes that the original location for the Hinckley Mineral Baths is now the Ashby Tavern. It is understood that this site pre-dates the Big Pit, however other water filled pits were present at this time and have since been drained/filled suggesting that previous similar pits have been successfully filled in this area.
- Based on available evidence, we can only assume that the water to the Hinckley Mineral Baths was from the spring identified and accounted for within the FRA. It is likely that the changes in configuration of the waterbodies in the area over time diverted the route of this spring away from the historic location of the Hinckley Mineral Baths.
- The FRA seeks to make a robust assumption of the flows from the identified spring and accounts for and proposes to maintain these flows through the site. In addition, an assumption of the greenfield flows intercepted by the ditch which conveys flows from the spring to the north has been made and accounted for within the proposals.
- The large water body within the pit is ultimately assumed as hard standing due to the way rainfall on the pit would be accounted for. Based on this assumption, the theoretical hard standing area of the site post-development would reduce, and therefore potentially reducing the volume of run-off and peak rate of flow to the downstream catchment. This assumption is based on minimal infiltration within the pit itself, which is likely a reasonable assumption based on the geology and the fact that the pit has not drained, but filled over time. Therefore the proposals have the potential to reduce downstream flood risk.
- BGS records of a well borehole south of the site which goes to a depth of 60m suggest groundwater at 30m below ground level (BGL).
- Borehole records to the northwest within clay at a lower ground level suggest only minor water seepage within some boreholes.
- Ground investigation details within the FRA appendices suggest groundwater is at significant depth although evidence of some perched groundwater was found at shallow depth at one location. This is likely due to the immediate proximity of the Big Pit to this particular borehole. Most boreholes/trial pits undertaken found no evidence of groundwater within them.

- The Preliminary Flood Risk Assessment (PFRA) identifies the site as having less than 25% susceptibility to groundwater flooding (low risk).
 - The FRA recommends groundwater monitoring for 3 months as part of gas monitoring, however we would question the reliability of any results obtained as the localised groundwater characteristics are likely to be altered (positively) as a result of draining and filling the pit.
 - The submitted FRA further suggests setting building floor levels based on recorded groundwater levels where appropriate.
- 8.53. In addition to the above, concern has been raised that Asda's car park to the north of the site floods and the location of the drainage outfall has been queried to ensure it is not into The Big Pit. A Severn Trent Water plan has been provided by the Environment Agency which illustrates a private sewer along the length of the Asda building running north and then north east towards the combined STW sewer.
- 8.54. It is considered that the proposed development would not create or exacerbate flood risk and would protect the quality of groundwater in accordance with Policy DM7 of the SADMP.

Ecology and biodiversity

- 8.55. Policy DM6 of the SADMP seeks to conserve features of nature conservation. Development proposals affecting locally important sites should seek to contribute to their favourable management in the long term and where a proposal is likely to result in harm to locally important sites developers will be required to accord with the following sequential test:
- Firstly, seek an alternative site with a lesser impact than that proposed
 - Secondly, and if the first is not possible, demonstrate mitigation measures can be taken on site
 - Thirdly, and as a last resort, seek appropriate compensation measures, on site wherever possible and off site where this is not feasible.
- 8.56. An ecological appraisal has been submitted with the application which includes a phase 1 habitat survey and additional survey work in accordance with the findings of the phase 1 survey. The appraisal confirms that:
- There are several species of bat present on the site although these use the site primarily for foraging and commuting as opposed to roosting due to the lack of buildings and suitable trees.
 - There are no badger setts present on or in close proximity to the site. No evidence of any other protected, rare or notable mammal species was recorded within the site. The submitted appraisal confirms that the open water habitat provides suboptimal habitat for riparian species such as Water Vole and Otter. However, these species are highly unlikely to be present within the site due to the lack of connectivity of the site to other suitable habitat in the local landscape.
 - Great Crested newts are known to be present and breeding in the nearby 'Little Pit' and presence in the Big Pit has been discounted through eDNA testing. Due to separation of the waterbodies by built form including a road, it is considered GCNs do not commute to the site. Therefore, it is highly unlikely that the proposed development would lead to any significant effects on the conservation status of GCNs.

- No evidence for the presence of any protected, rare or notable invertebrate species was recorded within the site. The open water habitat within the site is highly unlikely to support White-clawed Crayfish as the site is well removed and separated from known nearby populations, has been drained three times since 2003 and there is a lack of associated nearby historic records.
- 8.57. Leicestershire County Council (Ecology) has commented that the loss of a large body of water is not favourable but has accepted that the principle has already been established and commented on that basis. The surveys of the site, recording no evidence of badger setts, great crested newts or bat roosts, have been accepted. The layout provides a drainage feature that appears to have been designed to provide biodiversity opportunities through the site which is welcomed. The recommendations of the report should be secured through a planning condition as well as additional conditions in relation to a lighting scheme, a biodiversity management plan and additional surveys dependent upon when the development commences.
- 8.58. Concern has been raised that otters are present on the site. No evidence has been provided to support this and absence has been confirmed as part of the ecological appraisal which has been accepted by LCC Ecology.
- 8.59. Policy DM6 requires in the first instance that developments with biodiversity and nature conservation impacts should seek an alternative site with a lesser impact. The principle of development has been established through the extant outline planning permission and therefore development of the site is acceptable. In the second instance Policy DM8 requires development to demonstrate mitigation measures on-site. The proposed development would provide a drainage feature on-site which would provide biodiversity enhancements. Therefore, it is considered that the proposed development would be in accordance with Policy DM8 of the SADMP.

Contamination

- 8.60. Policy DM7 of the SADMP seeks to ensure appropriate remediation of contaminated land in line with minimum national standards is undertaken.
- 8.61. Site Investigations have been submitted as part of the application and confirmed that there are only minor levels of contamination at present on the site. The localised areas of contamination would be located under hard surfacing and therefore Environmental Health (Pollution) has confirmed that no remediation works are required.
- 8.62. A remediation statement has been submitted in relation to the infilling of the pit with inert material. The remediation statement details how the materials shall be controlled and tested to ensure no contaminated materials are brought onto site. Environmental Health (Pollution) has commented that the criteria against which the imported soils are assessed are incorrectly detailed in the remediation statement and therefore an amended version is required which can be secured through a planning condition. Provided the recommendations of the remediation statement are followed, there are no concerns in relation to contamination of imported materials. The remediation statement includes visits to be undertaken by an engineer throughout the remediation works to ensure that the requirements of the remediation statement have been implemented at the site and a verification report will be required on completion of the works confirming that any remedial works have been satisfactorily completed. Submission of the verification report should be secured through a planning condition.
- 8.63. Subject to conditions in relation to the infill works, it is considered that the proposed development would ensure appropriate remediation of contaminated land would

ensure no contaminated materials are used as part of the infill works. The proposed development would be in accordance with Policy DM7 of the SADMP.

Green space and play provision

- 8.64. Policy 19 of the Core Strategy identifies requirements for access to green space and play provision for occupiers of residential developments.
- 8.65. The submitted site layout plan has identified areas where equipped children's play space shall be delivered. It has been identified that the equipment will be delivered as timber outdoor play stations. The full details of the equipment have not been provided at this stage and therefore shall be secured through a planning condition.
- 8.66. The proposed development includes the reinstatement of the watercourse and an associated flood plain/compensatory storage area. The watercourse and adjoining areas shall be planted with a mix of native species providing habitats for wildlife. It is considered that this feature shall provide access to natural green space in accordance with Policy 19.
- 8.67. Surrounding the reinstated watercourse and play equipment and along the access will be areas of informal/casual play space. The exact square meterage of the informal/casual play space to be delivered will be confirmed when the detailed design of the watercourse and compensatory storage area is finalised. However, it is expected that the delivery of informal/casual play space will fall short of the requirement of Policy 19. A maintenance contribution shall be sought through a S106 agreement in the event that the space is adopted.
- 8.68. The provision of the above on-site green space and play provision shall be subject to a maintenance contribution sought through a S106 agreement, only applicable in the event that the space is adopted by the Council. The exact square meterage of each typology of open space is dependent upon the final design of the reinstated watercourse and compensatory storage area, which is subject to minor changes through the detailed design. An open space plan shall be secured through the S106 agreement and a maintenance contribution paid per square metre per typology of open space.
- 8.69. An off-site contribution should be secured for the delivery of Outdoor Sports Provision. Based on the delivery of 60 dwellings a provision contribution should be sought for £31,703.04 and a maintenance contribution sought for £30,412.90.
- 8.70. Subject to delivery of the on-site green space and play provision and off-site contributions, the proposed development would accord with Policy 19 of the Core Strategy.

Planning obligations

- 8.71. Policy DM3 of the SADMP states that where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly.

Primary education

- 8.72. The site falls within the catchment area of Hinckley The Parks Primary School. The School has a net capacity of 600 and 572 pupils are projected on the roll should this development proceed; a surplus of 28 pupil places. There are currently no pupil places at this school being funded by S106 agreements from other developments in the area to be deducted. There are 1 infant school, 1 junior school and 3 other primary schools within a two mile walking distance of the development. The overall deficit including all schools within a two mile walking distance of the development is 46 pupil places.

8.73. The 15 deficit places created by this development cannot therefore be accommodated at nearby schools and a claim for an education contribution of 15 pupil places in the primary sector is justified. In order to provide the additional primary school places anticipated by the proposed development the County Council would request a contribution for the Primary School sector of £174,225.74.

8.74. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Hinckley Parks Primary School.

Libraries

8.75. The proposed development on Ashby Road, Hinckley is within 1.3km of Hinckley Library on Lancaster Rd being the nearest local library facility which would serve the development site.

8.76. It will impact on local library services in respect of additional pressures on the availability of local library facilities. The contribution is sought for children's stock provision e.g. books, audio books, etc. for loan and reference use to account for additional use from the proposed development. It will be placed under project no. HIN005. There are currently four other obligations under HIN005.

8.77. The proposed development at Ashby Road, Hinckley is likely to generate an additional 87 plus users and would require an additional 208 items of lending stock plus reference, audio visual and homework support material to mitigate the impacts of the proposed development on the local library service.

8.78. The County Council consider the library contribution is justified and is necessary to make the development acceptable in planning terms in accordance with the relevant national and local policies and the additional demands that would be placed on this key infrastructure as a result of the proposed development. The library facilities contribution would be £1,800 (rounded to the nearest £10).

Civic amenity

8.79. The nearest Civic Amenity Site to the proposed development is located at Barwell and residents of the proposed development are likely to use this site. A contribution is required to mitigate the impacts arising from the increased use of the Civic Amenity Site associated with the new development (In 2012/13 (latest figures available). The Civic Amenity Site at Barwell accepted approximately 7,874 tonnes per annum) for example by the acquisition of additional containers or the management of traffic into and out of the civic amenity site to ensure that traffic on adjoining roads are not adversely affected by vehicles queuing to get into and out of the Civic Amenity Site.

8.80. The County Council has reviewed the proposed development and consider there would be an impact on the delivery of Civic Amenity waste facilities within the local area because of a development of this scale, type and size. As such a developer contribution is required of £2972.00 (rounded up to the nearest pound).

Health

8.81. The development is proposing 60 dwellings which based on the average household size of 2.42 per dwelling (2001 Census) could result in an increased patient population of 145. There are 5 practices within the town of Hinckley, 3 of which are within a mile of this development. These are:

- Centre Surgery, Hinckley Health Centre, Hill Street (List size 5601)
- Castle Mead Medical Practice, Hill Street (List size 10081)
- The Maples Family Medical Practice, Hill Street (List size 10465)

- 8.82. All three practices are currently experiencing increased patient demand and all report their premises are fully utilised in their current format. Castle Mead Medical Practice has seen their registered list rise by 7% in the past 5 years. The practice has confirmed they would be seeking funding to support the purchase of an additional equipment to support increased services to patients. The Maples Medical Practice would like to apply for funding to support the purchase of additional equipment to increase the range of services which can be provided to patients. Centre Surgery would like to purchase equipment for the Health Care Assistants Room to increase the range of services which can be provided to patients.
- 8.83. The CCG support the above requests as they would improve and increase access within each surgery. The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger practices. The cost per sqm has been identified by a quantity surveyor experienced in health care projects and the contribution requested equates to £17,330.40.

Sustainable travel

- 8.84. In order to encourage sustainable travel to and from the site, achieve modal shift targets and reduce car use, Leicestershire County Council (Highways) have requested:
- £52.85 per dwelling to provide travel packs to inform new residents from first occupation what sustainable travel choices are in the surrounding area
 - 6 month bus passes to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car. Two bus passes should be provided per dwelling at £360 per pass
 - £3852 for improvements to the relocated bus stop to include raised and dropped kerbs to allow level access to support modern bus fleets with low floor capabilities and
 - £145 for information display cases at the relocated bus stop to inform new residents of the nearest bus services in the area

CIL compliance

- 8.85. The request to pay the contributions must be considered alongside guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. This assessment has been undertaken and it is considered that all of the contribution requested, as set above, meet the tests and therefore are considered to be CIL compliant.

Viability

- 8.86. Policy DM3 of the SADMP states that where, because of the 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 Borough Council will balance the adverse impact of permitting the scheme on the delivery of such provision, with any appropriate evidence to support this justification.
- 8.87. A Viability Statement has been submitted by the applicants to demonstrate that the scheme is unable to provide the contributions detailed above. The development is for 100% affordable housing which is funded through a Homes and Communities Agency Affordable Housing Programme grant and the remainder through financing to be paid back through the returns on rent and sale of shared ownership dwellings.

Due to the development being 100% affordable housing, lower than market rents would be achieved which would not be sufficient to cover the cost of the development if the S106 contributions are sought.

- 8.88. The Viability Statement has been independently assessed by a third party instructed by the Local Planning Authority. The third party assessors concur with the findings of the viability statement and agree that it is not viable to pay the requested S106 contributions.
- 8.89. The proposed development would not provide the off-site infrastructure contributions sought. Any additional burden on the existing infrastructure must be balanced against any identified planning benefits of the scheme.
- 8.90. The application proposes to provide 60 affordable dwellings. The provision of 60 affordable houses in a sustainable location is considered to be a significant benefit of this application. Whilst the development will not be able to deliver the contributions considered necessary to limit the impact of the development upon local infrastructure it is considered that the provision of 60 affordable houses outweighs this harm and therefore the proposed development would be in accordance with Policy DM3 of the SADMP.

Conditions

- 8.91. The proposed conditions are largely the same as those imposed by the planning inspector on the extant planning permission. Where additional detail relating to the previously imposed conditions has been submitted, some conditions have been revised to reflect this. Additionally, further conditions are proposed due to the wider consideration of planning matters for this full application as opposed to the extant outline permission which only considered layout. The proposed conditions would be as stringent as those imposed on the extant permission however variations to the conditions are explained as follows:
- Several conditions previously imposed on the extant planning permission required the submission of details prior to commencement of development. Where works do not relate to the initial phase of development for the infilling of the pit, phasing of conditions is proposed which allows the infilling works to commence prior to the submission of some information. This approach is consistent with national guidance which seeks to reduce the use of pre-commencement conditions.
 - A condition was required by the inspector for a scheme and programme of works for the infill phase to be submitted and approved and specifying inert material to be used. It is not possible to specify a scheme and programme of works for the infilling phase due to the varying availability of material from other sites as the materials are excavated. The construction management plan, remediation statement and conditions restricting noise levels and number of deliveries provide sufficient control over the development to ensure there are no adverse impacts on the neighbouring amenity and the surrounding environment or the highway and that only inert material is used for the filling process.
 - A condition was required by the inspector for the restoration and after-care of the site in the event that following the commencement of development the works are not completed. The inspector required that these works take place in the event that infill works have not been completed within two years of commencing development or if no fill material has been brought onto site in 12 months. These timescales have been extended to three years from commencement and 18 months if no material has been brought onto site. The timescales have been extended because, as noted above, the availability of

the fill materials is yet unknown. It would be illogical to require restoration of the site if there was an unforeseen temporary shortage of material which is out of the applicant's control.

Other matters

- 8.92. Concern has been raised that the proposed development would result in the loss of the big pit which is a locally important heritage asset. This is not identified though any designations as a locally important heritage asset. The big pit is not considered to be of historic importance that is worthy of retention and the principle of the infilling and loss of the pit has already been established through the extant outline planning permission.

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 located within the settlement boundary of Hinckley and the part of the site forms allocation HIN26PP. The application would provide dwellings above the number required by the allocation on the site. The development would be 100% affordable housing with a mix of tenures and would provide a mix of housing types. The development would be in accordance with Policy SA1 of the SADMP and Policies 1, 15 and 16 of the Core Strategy.
- 10.2. Notwithstanding the above, the proposed development would result in the loss of an open space which is protected by Policies DM8 and DM9 of the SADMP. However, the principle of the loss of the open space has already been established as acceptable through the extant outline planning permission.
- 10.3. The proposed development would complement and enhance the character of the area. The development would not have an adverse impact on the amenity of surrounding residential properties and would provide a good standard of amenity for future occupiers. The proposal would not have an adverse impact on highway safety and would provide sufficient car parking provision to serve the occupiers. The development would reinstate the Sunnyside Brook watercourse, provide an associated flood plain basin and would adequately attenuate surface water runoff from the development. The proposal involves biodiversity enhancements through the reinstated watercourse to mitigate any adverse impacts from the loss of the existing undeveloped site. The proposed development is considered to be in accordance with Policies DM6, DM7, DM10, DM17 and DM18 of the SADMP.
- 10.4. A viability appraisal has demonstrated that it is not viable to deliver 100% affordable housing and the S106 contributions sought. The benefits of providing 60 affordable

dwelling is considered to outweigh the harm caused by the lack of contributions towards local infrastructure and is considered acceptable in accordance with Policy DM3 of the SADMP.

11. Recommendation

11.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - 100% affordable housing
 - Play and open space plan and maintenance scheme
 - Sustainable surface water drainage system maintenance scheme
- Planning conditions outlined at the end of this report.

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

11.3. That the Planning Manager Development Management be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

11.4. Conditions and Reasons

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

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, details and materials:

40397/026 - Site Location Plan (received on 1 August 2017)

015/Site .Access/001 B - Site Access Plan (received on 24 October 2017)

40397/001O - Site Layout (received on 25 October 2017)

40397/011A - House Type Plots 9-10 (received on 25 October 2017)

40397/008C - House Type Plots 1-3 (received on 25 October 2017)

40397/009C - House Type Plots 4-5, 41-42 & 56-57 (received on 25 October 2017)

40397/010B - House Type Plots 6-8 (received on 25 October 2017)

40397/015A - House Type Plots 22-24 (received on 25 October 2017)

40397/016A - House Type Plots 25-26 (received on 25 October 2017)

40397/012C - House Type Plots 11-12, 16-17, 20-21, 43-44 & 54-55 (received on 25 October 2017)

40397/013B - House Type Plots 13-15 & 58-60 (received on 25 October 2017)

40397/014B - House Type Plots 18-19, 32-33 & 37-38 (received on 25 October 2017)

40397/022B - House Type Plots 39-40 & 52-53 (received on 25 October 2017)

40397/017B - House Type Plots 27-28 (received on 25 October 2017)

40397/018A - House Type Plots 29-31 (received on 25 October 2017)

40397/019B - House Type Plots 50-51 (received on 25 October 2017)

40397/020A - House Type Plots 34-36 & 47-49 (received on 25 October 2017)

40397/021A - House Type Plots 45-46 (received on 25 October 2017)

Reason: To ensure a satisfactory impact of the development to accord with Policy DM1 of the adopted Site Allocations and Development Management Policies DPD.

3. Prior to construction above damp course level of any of the dwellings hereby approved, representative samples of the types and colours of materials to be used on the exterior of the dwellings shall be submitted to 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 and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

4. No development associated with the construction of any dwelling shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- 1) Proposed finished levels or contours
- 2) Means of enclosure
- 3) Car parking layouts
- 4) Other vehicle and pedestrian access and circulation areas
- 5) Hard surfacing materials
- 6) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
- 7) Planting plans including replacement tree planting
- 8) Written specifications
- 9) Schedules of plants, noting species, plant sizes and proposed
- 10) numbers/densities where appropriate
- 11) Implementation programme

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

5. The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. 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 and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

6. No development associated with the construction of any dwelling shall commence until such time as the proposed ground levels of the site, and proposed finished floor levels have first been submitted to and approved in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

7. No development shall commence until fencing for the protection of trees has been erected in accordance with the Tree Protection Plan in Appendix C of the submitted document entitled 'Arboricultural Impact Assessment' authored by Aspect Arboriculture and received by the Local Planning Authority on 1 August .2017. The fencing specification shall be as detailed in BS5837:2012. No works shall take place within the area inside that fencing without the written approval of the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

8. The proposed development shall be carried out wholly in accordance with the Mitigation Measures and Ecological Enhancements as detailed in Section 6 of the submitted document entitled 'Ecological Appraisal' authored by Aspect Ecology and received by the Local Planning Authority on 1 August 2017 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

9. Prior to occupation of any dwelling hereby permitted, a Biodiversity Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The site shall be managed in accordance with the approved details on the plan.

Reason: To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

10. Prior to occupation of any dwelling hereby permitted, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of any dwelling hereby permitted.

Reason: To ensure no light spill to the reinstated watercourse and areas used by bats for foraging and commuting to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

11. Prior to occupation of any dwelling hereby permitted, a bat and nesting bird box scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of any dwelling hereby permitted.

Reason: To mitigate the adverse impacts on bats and nesting birds arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

12. If development has not commenced on site prior to July 2019, no development shall commence until updated Protected Species Surveys have been submitted to and approved in writing by the Local Planning Authority. The mitigation and enhancement measures as recommended by the updated protected species surveys shall be wholly implemented in accordance with recommended timescales.

Reason: To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

13. No development shall take place until a detailed scheme for the reinstatement of Sunnyside Brook and its flood plain corridor within the site has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with the indicative site plan on drawing ref 40397/001 revision O, drawing 063844-CUR-00-ZZ-DR-D-501 revision V03 and paragraph 6.3.4 of the flood risk assessment ref 063844-CUR-00-ZZ-RP-D-500_FRADDS revision V02 dated 21 July 2017, provide a minimum of 4,000m³ compensatory flood storage, and include a programme for its implementation during the infilling engineering works and a management plan for its future maintenance. The watercourse shall be reinstated in accordance with the approved programme, and maintained thereafter in accordance with the approved management plan.

Reason: To ensure the development does not create or exacerbate flooding elsewhere by ensuring that the watercourse is reinstated and compensatory storage of flood water is provided to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

14. No development associated with the construction of the dwellings shall take place until the culverted watercourse through the easement in the land to the north of the site has been upgraded in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with paragraph 4.1.5 of Appendix D (flood risk assessment ref IP09_313_07C dated January 2010) within the flood risk assessment ref 063844-CUR-00-ZZ-RP-D-500_FRADDS Revision V02 dated 21 July 2017.

Reason: To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

15. No development shall commence until a construction method statement to cover channel and bank works has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

- Details of temporary works, including the diversion of Sunnyside Brook, and fencing within the flood plain
- Methods to be used for all permanent and temporary channel and bankside water margin works
- Details of the location and storage of plant, materials and fuel, access routes and access to the banks
- Measures for the enhancement of the biodiversity potential of the reinstated watercourse
- Details of site supervision

Reason: To ensure the works do not create flooding, pollution or damage habitats to accord with Policies DM6 and DM7 of the Site Allocations and Development Management Policies DPD.

16. The finished floor levels of all dwellings shall be set no lower than 600mm above the design 100 year plus climate change flood level for the reinstated watercourse in accordance with paragraph 5.2.4 of the flood risk assessment

ref 063844-CUR-00-ZZ-RP-D-500_FRADDS Revision V02 dated 21 July 2017.

Reason: To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

17. No development or site clearance shall take place until a Biodiversity Method Statement has been submitted to and approved in writing by the local planning authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. The method statement shall include:

- Confirmation of how any fish found in the pool will be removed and transferred. This should be carried out by an approved contractor, familiar with this activity, who also have the permits in place to move fish. Any pumps should be screened with a maximum 10mm mesh screen;
- Pollution protection measures and 'stop' procedures that prevent disturbed silts being discharged to the culverted Sunnyside Brook which is within a Water Framework Directive (WFD) monitored Water Body (GB104028046640) which is currently at 'POOR' status for phosphate and fish;
- Confirmation of the biosecurity procedures that are in place to prevent transfer of any non-native organisms on Personal Protective Equipment (PPE) and equipment. Additional guidance can be found here: <http://www.nonnativespecies.org/checkcleandry/index.cfm>.

The works shall be carried out in accordance with the approved method statement.

Reason: To mitigate the adverse impacts on biodiversity arising from the development of a locally important site and provide ecological enhancements to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

18. No development associated with the construction of any dwelling shall commence until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority.

Reason: To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

19. No development associated with the construction of any dwelling shall commence until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure the development does not create or exacerbate flooding to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

20. No development associated with the construction of any dwelling shall commence until such time as details in relation to the long term maintenance of the sustainable surface water drainage system within the development have been submitted to, and approved in writing by, the Local Planning Authority.

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

21. No development associated with the construction of any dwelling shall commence until a scheme for the protection of the proposed dwellings from noise from the air handling units and the service yard at the supermarket on the land to the north has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full before any of the dwellings is occupied.

Reason: To protect the amenity of the future occupiers from noise sources to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

22. No development associated with the construction of any dwelling shall commence until a scheme for the protection of the proposed dwellings from noise from the louvre at the supermarket on the land to the north has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full before any of the dwellings is occupied.

Reason: To protect the amenity of the future occupiers from noise sources to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

23. No development shall take place until a scheme for the protection of neighbouring dwellings from noise during the infill engineering works has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all acoustic fences, and it shall be implemented in full before the engineering works, including the cut-to-fill phase, commence.

Reason: To protect the amenity of occupiers of neighbouring properties to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

24. The level of noise arising from the cut-to-fill and infilling operations shall not exceed the following limits at 3.5m from the most exposed façade of any adjacent dwelling: 55dB(A)LAeq,1h, except for temporary operations limited to a total of 88 days in any 12 months period for which the limit shall be 65dBLAeq,1hour.

Reason: To protect the amenity of occupiers of neighbouring properties to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

25. No development shall take place until an environmental management scheme, including an assessment of the impact of dust, vibration and lighting from the infill engineering works and the impact of dust, vibration, lighting and noise from the construction of the housing, has been submitted to and approved in writing by the local planning authority. The scheme shall include:

- The organisation and layout of the site and the control of operations to minimise the generation of dust, noise, vibration and light emissions.
- The control of dust emissions to prevent fugitive emissions leaving the site.

- The control of construction noise.
- The control of site lighting to prevent light spillage on adjacent dwellings.

Reason: To protect the amenity of occupiers of neighbouring properties and the surrounding environment to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

26. The infill engineering works, including the cut-to-fill phase, and the construction of the dwellings hereby permitted shall not be take place outside the following times: 0800 to 1730 hours from Monday to Friday and 0800 to 1300 hours on Saturdays. No infill engineering works, including the cut-to-fill phase, or construction work shall take place at any time on Sundays and public holidays.

Reason: To protect the amenity of occupiers of neighbouring properties and the surrounding environment to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

27. Notwithstanding the submitted document entitled Remediation Statement, prior to commencement of development a revised Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out wholly in accordance with the approved Remediation Statement. Prior to commencement of works associated with the construction of the dwellings, the Verification Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure no contaminated materials are brought onto the site to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

28. 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 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 site first being occupied.

Reason: To ensure appropriate remediation of contaminated land to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

29. Should the infill engineering works not be completed within three years of the commencement of development, or if no fill material has been brought onto site for a period of 18 months, a scheme shall be submitted to the local planning authority for the restoration and after care of the site. Following the approval in writing of the scheme, it shall be implemented in full and after-care carried out for the duration of the prescribed period.

Reason: In the interests of visual amenity and flood risk should the development fail to be completed to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

30. No development shall commence on the site until such time as an amended Construction Management Plan, including as a minimum, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in

accordance with the approved Construction Management Plan.

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

31. No dwelling hereby permitted shall be occupied until such time as the access arrangements shown on Lennon Transport Planning drawing number 015/Site Access/001 rev B, 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 to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

32. No dwelling hereby permitted shall be occupied until such time as the internal layout arrangements shown on RG+P drawing number 40397/001 O have been implemented in full.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally, in the interests of general highway safety to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

33. No dwelling hereby permitted shall be occupied until such time as the offsite works, including the right turn lane and relocating the bus stop, shown on Lennon Transport Planning drawing number 015/Site Access/001 rev B have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

34. The total number of deliveries of material for the infill engineering works shall not exceed a weekly limit of 275 over a 5.5 day working week, subject to a daily maximum of 75 from Monday to Friday and 37 on Saturdays. Records of all such deliveries shall be maintained on a daily basis and shall be made available to the Local Planning Authority within five working days of a request being made.

Reason: To ensure no adverse impact on highway safety to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

35. Prior to occupation of any dwelling hereby permitted, the footpath link between Ashby Road and public footpath U76 shall be completed and made available for use.

Reason: To ensure that there is convenient and safe access for walking and cycling to services and facilities to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

11.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.

2. 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 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.
3. If the roads within the proposed development are to be offered for adoption by the Local Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. 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 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.

If an Agreement is not in place when the development is commenced, the Local Highway Authority will serve Advanced Payment Codes in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge **must** be made before building commences. Please email road.adoptions@leics.gov.uk in the first instance.
4. 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.
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 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.
6. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
7. Please note that both during construction, and post restoration, Sunnyside Brook should be protected from poor quality surface water from drives and drains. This can be ensured by adopting the best practice of Sustainable Urban Drainage (SUDs) in consultation with the Lead Local Flood Authority. General guidance and further ideas can be found at the following link: <http://www.wwt.org.uk/conservation/saving-wetlands-and-wildlife/influencing-action/guidance/sustainable-drainage-systems-suds/>.

For any further advice on fisheries and/or biodiversity, the application is advised to contact their local Environment Agency Fisheries Officer, Tom Astley, on 01543 404868.

8. We would like to take this opportunity to present the following comments which relate solely to the protection of 'Controlled Waters'. Matters relating to human health should be directed to the relevant department of the local council.

Reference to the 1:50,000 map indicates that the site is located on the bedrock of the Mercia Mudstone formation, designated as a Secondary (B) Aquifer by the Environment Agency. Superficial deposits of the Wolston Clay layers are also indicated to be present, designated as an Unproductive Aquifer. As such, the site is not considered to be particularly sensitive with respect to controlled waters receptors.

The proposed development site appears to have been the subject of past industrial activity which may pose a risk of pollution to 'Controlled Waters'. However, we have recently revised the priorities for deployment of the EA's technical resource towards focusing on:

The protection and improvement of the groundwater that supports existing potable drinking water supplies.

Groundwater within the most strategically important aquifers for future supply of potable drinking water or other environmental use.

As such we are unable to provide detailed site-specific advice relating to land contamination issues at this site. As an alternative, we would therefore advise that you refer to our published "Guiding Principles for Land Contamination" which outlines the approach we would wish to see adopted to managing risks to the water environment from this site.

We also recommend that you consult with your Environmental Health / Environmental Protection Department for further advice on generic aspects of land contamination management. Where planning controls are considered necessary we would recommend that you seek to integrate any requirements for human health protection with those for protection of the water environment. This approach is supported by Paragraph 109 of the NPPF.

The applicant / developer should refer to our document 'The Environment Agency's approach to groundwater protection', available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

9. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or

not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice.

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

10. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position Statement on the Definition of Waste: Development Industry Code of Practice and
- The Environmental regulations page on GOV.UK.

Contaminated soil that is or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

11. In relation to condition 18, the scheme shall include the utilisation of holding sustainable drainage (SuDS) 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; and the responsibility for the future maintenance of drainage features. The proposals should also demonstrate the proposed allowance for exceedance flow and associated overland flow routing.

Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long

sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year return periods plus climate change.

12. In relation to condition 19, 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.
13. In relation to condition 20, details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the system, and should also include procedures that must be implemented in the event of pollution incidents within the development site.