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Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 15 February 2022



**Hinckley & Bosworth
Borough Council**

To: Members of the Planning Committee

Cllr MJ Crooks (Chairman)	Cllr A Furlong
Cllr DJ Findlay (Vice-Chairman)	Cllr SM Gibbens
Cllr CM Allen	Cllr L Hodgkins
Cllr RG Allen	Cllr KWP Lynch
Cllr CW Boothby	Cllr LJ Mullaney
Cllr SL Bray	Cllr RB Roberts
Cllr DS Cope	Cllr H Smith
Cllr WJ Crooks	Cllr BR Walker
Cllr REH Flemming	

Copy to all other Members of the Council

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Dear Councillor,

Please see overleaf a Supplementary Agenda for the meeting of the **PLANNING COMMITTEE** on **TUESDAY, 15 FEBRUARY 2022** at **6.30 pm**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Manager

SUPPLEMENTARY AGENDA

7. 21/00787/OUT - Land North East of Ashby Road, Markfield (Pages 1 - 28)

Application for residential development of up to 93 dwellings, public open space, landscaping and SuDS (Outline – access only) (cross boundary application with Charnwood BC)

Late items received after publication of agenda:

Introduction:-

This application was first heard at Planning Committee on 14 December 2021. The recommendation was to approve the application, but the application was deferred to re-consult with LCC Highways and Environmental Health on the impact upon neighbouring residential amenity for car headlights leaving the proposed access. Committee Members also requested that legal advice was sought on the application. For clarity the following sections within the December Committee report remain unchanged:

- Heritage
- Impact upon trees
- Impact upon highway safety
- Drainage
- Impact upon public rights of way
- Ecology

Consultations:-

LCC Highways comments remain unchanged from that previously reported within the December committee report and they have no further comments in regard to the re-consultation.

HBBC Environmental Health's comments are within the appraisal section of this late item. Charnwood Borough Council have formally responded to the consultation on this application and stated that they did not respond within the formal consultation period as they did not wish to pre-determine the application. They also stated that the application within their area now has a resolution to grant.

An additional comment has been received stating that the secondary school contribution has been reported as being directed to the wrong school – this was updated within 14 December Committee Late Item.

Legal Advice Summary:-

HBBC have sought legal advice on the following:

- a) The duty to co-operate in the Localism Act 2011
- b) The soundness of Charnwood Borough Council's committee decision to grant outline planning permission
- c) The consideration of the application as a whole and its impact upon HBBC and the Markfield Neighbourhood Plan

The advice sought advised the following in respect of the above matters:

- a) Section 110 of the Localism Act 2011 deals with plans and strategies and inserts a new section (33A) into the Planning and Compulsory Purchase Act 2004. This provision contains the duty to co-operate which details the activities in which authorities should co-operate. The activities specified within this provision are related to the plan-making process. Section 33A of the 2004 Act imposes no duty to co-operate in respect of the determination of planning applications (whether or not those applications are 'cross-boundary'), and no such duty was imposed upon Charnwood Borough Council (CBC) in this case.
- b) There is no obvious fundamental errors of procedure or law that would warrant a legal challenge. It is considered that all the correct material considerations were considered when reading the committee report and extras report together.
- c) In so far as the application submitted for HBBC's consideration it is deemed that the assessment of the scheme against policies falls to the respective Local Plan or Neighbourhood Plan covering that area. The description of development relates to housing and therefore the application should be assessed as a housing scheme. However, it falls to the Charnwood Local Plan to assess the development of land within their administrative boundary and the Hinckley and Bosworth Local Plan and the Markfield Neighbourhood Plan to assess the development of Land within their administrative area. The impacts and benefits of the whole development can be considered by the Committee.

Appraisal:-

Key issues:

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Other matters
- Planning Balance

For clarity the above 'assessment against strategic planning policies' and 'planning balance' sections have been revised below in full so they can easily be followed without having to refer to different paragraphs of the original December committee report. The other sections should be read in conjunction with the December committee report.

Assessment against strategic planning policies

- 1.1. Paragraph 2 of the National Planning Policy Framework (NPPF) (2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 1.2 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009), the Site Allocations and Development Management Policies DPD (2016) and the Markfield Neighbourhood Plan (2020-2039).

- 1.3 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Markfield is identified as a Key Rural Centre within Policy 7 and 8 of the Core Strategy. Markfield has several key services, including a Library, Primary School and Medical Centre. This shows that the village has accessible community facilities serving the existing community, and any new residents of the future. In addition to this, within Markfield centre the following economic activity: beauty salon, hot food takeaways, hairdressers, financial advisor, hardware store, convenience stores and supermarket (co-op) (This is supported in the District, Local and Neighbourhood Centre Review (2015) and the Community Facilities Review (2013)). In this sense Markfield is an economically and socially sustainable settlement.
- 1.4 To support its role as a Key Rural Centre, Policy 8 allocated a minimum of 80 new homes in Markfield. Since the adoption of the Core Strategy the Site Allocations and Development Management Policies DPD (2016) allocated sites for housing in Markfield in three locations all of which had planning permission at the time of allocation equating to more than 80 dwellings.
- 1.5 Notwithstanding this, the housing policies in the Core Strategy and Site Allocations DPD are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure when using the standard method set out by MHCLG. In addition, the Council cannot currently demonstrate a five-year housing land supply. Therefore, any formal application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, supported by Policy DM1 of the SADMP.
- 1.6 This is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.
- 1.7 In relation to paragraph 11(d), paragraph 14 of the framework states that where an application involves the provision of housing, the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits (subject to criteria). Markfield Neighbourhood Plan was made in September 2021 and is less than 2 years old and therefore supersedes the housing requirement within the Core Strategy and Site Allocations DPD.
- 1.8 Policy M15 of the Markfield Neighbourhood Plan identifies a housing requirement of 334 dwellings up to 2036. Taking into account completions and commitments this leaves a residual requirement of 280 dwellings to be provided within the neighbourhood plan area. Policy M16 of MNP allocates the land south of London Road for 280 dwellings to meet the residual requirement. This allocation now has planning permission for 282 dwellings and is classed within the Residential Land Availability Statement (2020-21) as deliverable. It should be noted that the majority of this application under consideration is not within the administrative boundary of HBBC and therefore this site could not be considered through the Neighbourhood Plan process.

- 1.9 The site is located outside of the settlement boundary of Markfield, within the countryside and therefore any application should be assessed against Policy DM4 of the SADMP and Policy M1 of the MNP.
- 1.10 Policy DM4 of the adopted SADMP seeks to protect the intrinsic value, beauty and open character and landscape character through safeguarding the countryside from unsustainable development.
- 1.11 DM4 states Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
and:
 - i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii) It does not create or exacerbate ribbon development;
 - iv) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21
- 1.12 Policy M1 of the MNP states that the following types of development will be supported in countryside locations:
- 1) Recreation and tourism that cannot be provided within the Settlement Boundary;
 - 2) Development by statutory undertakers or public utility providers;
 - 3) The subdivision of an existing residential dwelling; and
 - 4) Development that is otherwise in accordance with: national policies, or strategic planning policies or allocations; or with the other policies of the Neighbourhood Plan.
- 1.13 The illustrative masterplan shows only the access, part of the road, the tree line and a minor part of the unadopted 'Lane 2' within Hinckley and Bosworth

Borough Council's boundary. These parts of the proposal do not come under any of the categories identified in DM4 as sustainable development and so there is a conflict between the proposed development and the policy.

- 1.14 As a conflict has been identified with Policy DM4 of the SADMP there is also a conflict with Policy M1 of the made Markfield Neighbourhood Plan (point 4). This conflict will be weighed within the revised planning balance.

Design and impact upon the character of the area

- 1.15 The assessment of the impact upon the character in regard to HBBC's policies remains as stated within the December committee report (paragraphs 13.17-13.24). The below does detail the impact upon receptors within HBBC. It is acknowledged that there would be a loss of a countryside view although noting that the view is not a protected view within the Markfield Neighbourhood Plan, the harm is considered moderate
- 1.16 The planning balance however has been updated below to include the harm identified by CBC within their committee report. Therefore, the assessment within the LVIA and the harm of the overall development has been detailed below to show how the level of harm identified by CBC and the weight given to this harm.
- 1.17 Zebra Landscape Architects (ZLA) Limited undertook an LVIA on behalf of the applicant for the submission of this application. The assessment assesses the impact pertaining to the whole site.
- 1.18 The majority of the site is located within the Charnwood Forest and Charnwood Borough Council have a *Charnwood Forest Landscape Character Assessment (2019)* for this area. The site is within Area 6 of this assessment (Thringstone/Markfield Quarries and Settlement). Charnwood's sensitivity assessment states that the site had a low to medium landscape sensitivity to new residential development due to the screening effect of existing woodland.
- 1.19 The Assessment considers that the proposal is of a small scale and that the overall effect on the 'Thringstone/Markfield Quarries and Settlement' Landscape Character Area is minor. Some harm accrues as is always the case when open land is replaced with built form and its associated change of visual character. That harm in terms of landscape character in this instance is localised. The loss of the agricultural field inevitably creates harm however this is a localised harm due to the site context. There is therefore an adverse effect on Landscape character.
- 1.20 The residential receptors situated within close range of the site are likely to experience the effects of the proposed development. It is noted however that views of the site would be and are already filtered by mature vegetation along Ashby Road. It is noted however, that some pruning is proposed to this vegetation which has the potential to increase views.
- 1.21 It is likely only close-range views would be affected from vehicle route (predominantly the Ashby Road) with the discernibility of the proposal from the A50 dual carriageway and M1 Motorway likely to be imperceptible for users. Similarly, users of PRoW within close to medium range of the site are unlikely to be affected by the proposal with the development screened by intervening landform, residential built form, and the coniferous and deciduous woodland blocks of the Charnwood Forest.

- 1.22 The LVIA concludes that the site would not be harmful to the natural environment when read as a whole and would contribute to the aspiration of the landscape management guidance within Charnwood's local plan.
- 1.23 CBC considered the above assessment within the determination of their application and identified harm to the landscape. This was also considered within CBC's overall planning balance for the application. Therefore, Charnwood's decision will be weighed within the planning balance.

Impact upon neighbouring residential amenity

- 1.24 The assessment within the December committee report regarding residential amenity still stands. This updated sections only comments on the additional light pollution issue raised at the December committee.
- 1.25 Policy DM10 of the SADMP identifies that development should 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.
- 1.26 A supplementary note was submitted in support of the application following concerns raised at the December committee meeting in regard to the impact upon neighbouring properties from headlight glare.
- 1.27 The site is currently unlit but Ashby Road itself and the dwellings opposite are. The location of the access is in part opposite no. 21 Ashby Road. This property is set back from Ashby Road by a grass verge, a footpath and boundary hedge approximately 0.6 metres in height. This boundary treatment will partially screen the access to the site from no. 21. Nevertheless, it is acknowledged that there will be an adverse impact upon the residents of this neighbouring property.
- 1.28 The road level of the estate road and boundary treatments will partially mitigate the light pollution from car headlights. The distance between the access and the no. 21 (approximately 20 metres) also will reduce the glare from headlights. During the summer months, only night-time movements would be likely to cause minor disturbance to no. 21. HBBC Pollution have reviewed the note and state that the car lights could cause some impact but given the number of vehicles estimated to access the site it is unlikely to cause significant impact but could cause irritation and annoyance.
- 1.29 Therefore, there will be an impact upon neighbouring residential amenity from the light pollution but not a significant impact that would justify refusal of the application. The conflict with Policy DM10 will be weighed within the planning balance.

Other matters

- 1.30 A comment has been made stating that the application has not been assessed against the Charnwood Forest Protection Plan.
- 1.31 The National Forest Company were consulted on the application and have no objections to the application.

Planning Balance

- 1.32 Policy DM4 sets out what type of development within the countryside is acceptable however as this is based on out-of-date settlement boundaries this policy is also classed as out-of-date but afforded significant weight. As there are out-of-date policies within the Core Strategy and Site Allocations DPD this application should be assessed within the 'tilted balance' in accordance with paragraph 11(d) of the NPPF. Therefore, a presumption of sustainable development applies.
- 1.33 As the application involves the provision of housing and the Markfield Neighbourhood Plan was made 10th September 2021 paragraph 14 of the NPPF applies. This is weighed within the balance.
- 1.34 Paragraph 14 of the Framework is engaged, since it is less than 2 years since the NDP was made; the NDP contains policies and allocations to meet its identified housing requirement; there is in excess of a three-year supply of deliverable housing sites; and housing delivery is at least 45% of that required over the previous three years as set out within the HDT test results. In these circumstances the Framework states that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
- 1.35 In terms of the development within Hinckley and Bosworth's administrative boundary the development conflicts with Policy DM4 of the SADMP as it does not satisfy any of the criteria a-e. In terms of Policy DM10 and the character of the streetscene there is no identified conflict. There is an identified conflict with Policy DM4 in terms of the landscape character. Due to the proposals being in conflict with Policy DM4 the proposals are therefore also in conflict with Policy M1 of the MNP. This policy is afforded full weight. The conflict with Policy DM4 and Policy M1 is given significant weight.
- 1.36 There is also conflict with Policy DM10 of the SADMP due to the impact upon residential amenity from the car headlights. This is given moderate weight.
- 1.37 Charnwood Borough Council identify harm to the landscape and conflict with their Local Plan policies therefore this is also included within the balance. However, significant weight is given to the resolution to grant outline permission from Charnwood's planning committee.
- 1.38 It is also important to identify any benefits of the scheme. Following the three strands of sustainability the benefits are broken down into economic, social and environmental.
- 1.39 The proposal would deliver up to 93 dwellings of which 38 would be affordable. The level of affordable housing is policy compliant. The proposal would be consistent with the Framework in so far as it seeks to significantly boost the supply of homes. Charnwood Borough Council give significant weight to these benefits within their planning balance. As weight is already given to Charnwood's decision this has not been directly weighed in the balance as not to 'double count' any benefits.
- 1.40 The wider proposal would result in economic benefits through the construction of the scheme albeit for a temporary period (applicable to the HBBC administrative area). Additionally, the residents of the proposed development would provide ongoing support to local services.
- 1.41 The social benefit to the area and also to the borough would be from the wider scheme by the provision of dwellings but there is not any identified social benefit

from the development within HBBC. This benefit therefore has been captured within Charnwood's assessment of the application. As weight is already given to Charnwood's decision this has not been directly weighed in the balance as not to 'double count' any benefits.

- 1.42 Some environmental benefits would be provided such as the pruning of trees within the protected tree line and the removal and replacement of unclassified trees to promote the vitality of the tree line and biodiversity of the site.
- 1.43 Paragraph 15 of the Framework sets out that planning should be genuinely planned, and amongst other matters should provide a platform for local people to shape their surroundings. The MNP has sought to do this. Granting planning permission for a development that would conflict with the strategy within a relatively recently made neighbourhood plan found to be in conformity with the Local Plan would undermine the neighbourhood planning process and the planned system as a whole, contrary to the policies within the Framework.
- 1.44 The harm identified is the conflict with Policy DM4 as the proposed works within HBBC does not fall within the a-e criteria. Para 14 of the NPPF advises where an impact has been identified this is likely to significantly and demonstrably outweigh the benefits. Para 11 of the NPPF advises that where policies are considered to be out of date, the presumption in favour of development applies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 1.45 Overall, the adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework as a whole. Therefore, I conclude that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

Recommendation:-

The recommendation within the December committee report has been changed and this application is now recommended for refusal for the following reason:

The development, due to its location in the open countryside, would be harmful to the character and appearance of the area and have an urbanising impact on the site. The proposal would have a significant adverse effect upon the intrinsic character and beauty of the countryside. The proposal would therefore be contrary to Policy DM4 of the Site Allocations and Development Management Development Plan Policies (2016), Policy M1 of the Markfield Neighbourhood Plan (2021) and this harm would significantly outweigh the benefits when considered against the Framework as a whole.

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Planning Committee - 15 February 2022
Report of the Director Environment and Planning

Planning Ref: 21/00787/OUT

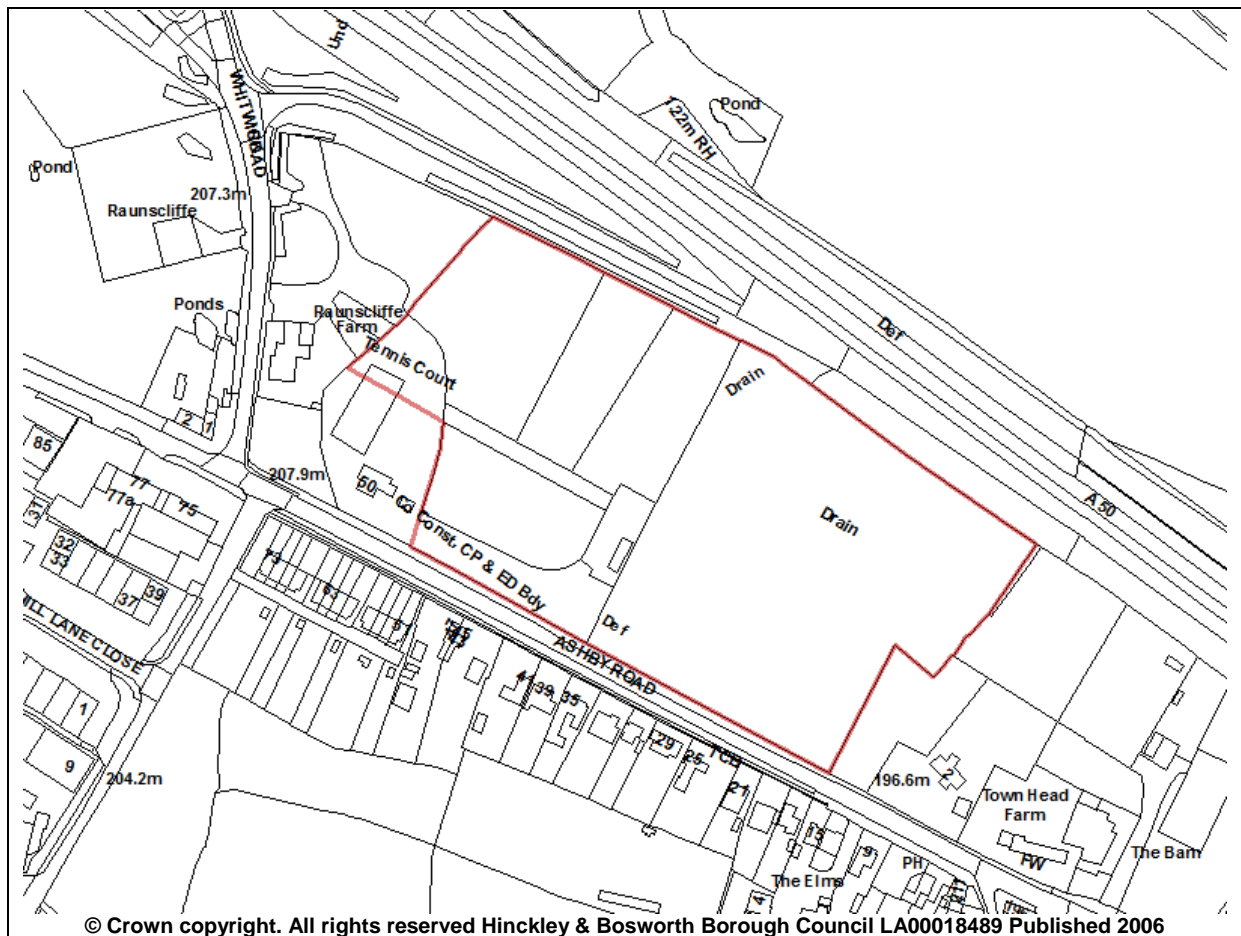
Applicant: Penland Estates Limited, RV Millington Limited,
Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: Land North East Of Ashby Road Markfield

Proposal: Residential development of up to 93 dwellings, public open space, landscaping and SuDS (Outline- access only) (cross boundary application with Charnwood BC)



1. This application was taken to the previous Planning Committee (14.12.2021) and was set to be heard at January Committee (18.01.2022). The December committee report and accompanying late items are attached to this report as Appendix A and B. The January committee report can be found at Appendix C. The application was not heard in January but deferred again until this committee.
2. At the December committee, the item was deferred to consult with LCC Highways and Environmental Health on the impact upon neighbouring residential amenity from car headlights leaving the proposed access.
3. LCC highways have no further comments to add and state their comments are as per provided within Appendix A. The HBBC Environmental Health officer was also consulted. The details have been assessed and the late item will report in full the

conclusion in relation this aspect of the application which will then also be considered within the revised planning balance.

4. At December committee it was also requested that legal advice was sought on the application and this is still currently taking place.
5. The late item will therefore confirm if the item on the agenda has altered from that already presented to Planning Committee in December and if the recommendation remains the same.

APPENDIX A

Planning Committee 14 December 2021
Report of the Director Environment and Planning

Planning Ref: 21/00787/OUT

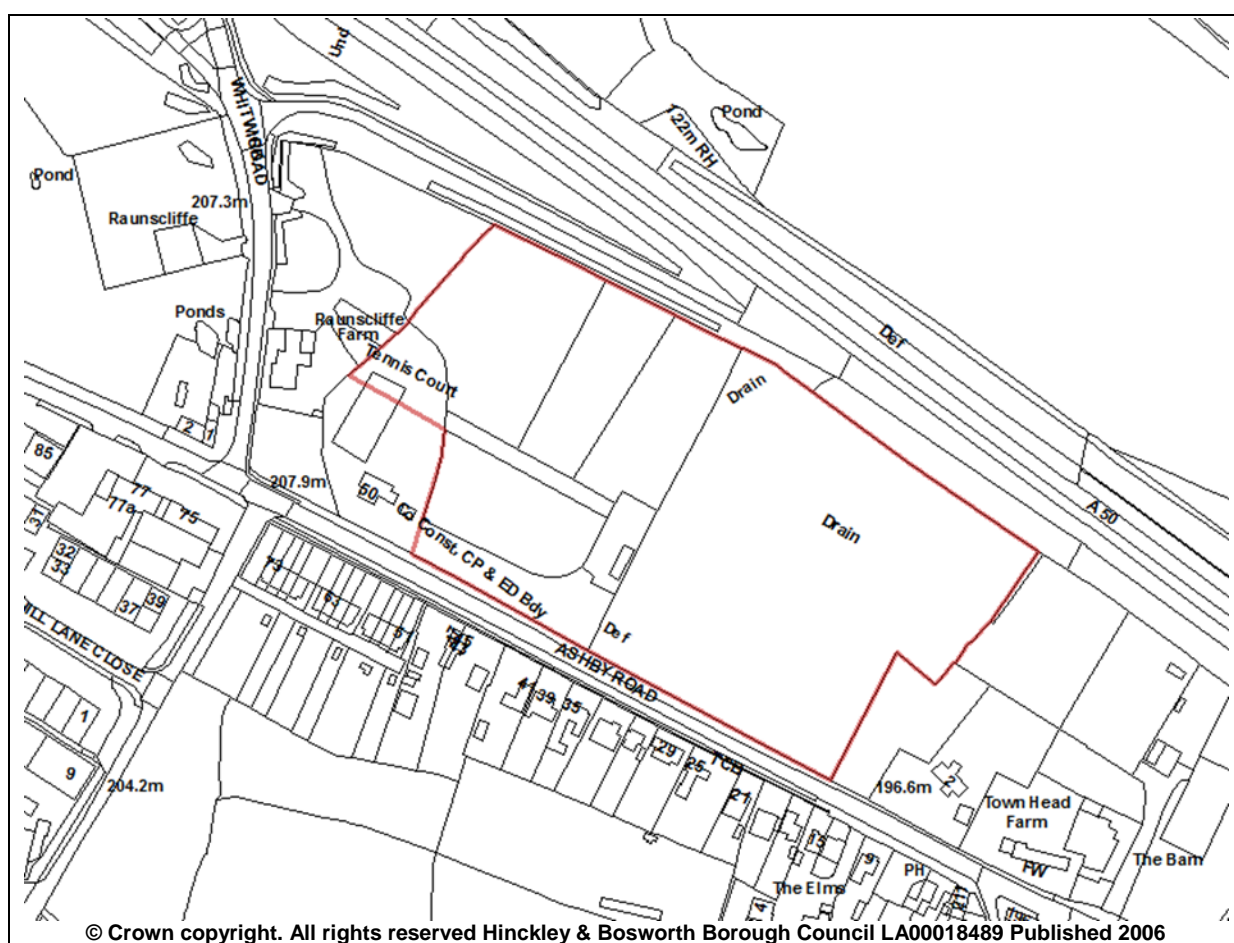
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1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

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

2. Planning application description

- 2.1. This application seeks outline planning permission for a residential development of up to 93 dwellings, public open space, landscaping and SuDS north-east of Ashby Road, Markfield.
- 2.2. This application is a cross-boundary application with Charnwood Borough Council for which the only land which lies within the administrative boundary of Hinckley and Bosworth BC is the front of the site where the access is proposed and the protected trees lie. The majority of the built development lies within Charnwood Borough Council. It will fall to the respective Local Planning Authorities to determine the part of the development that falls within their area. The application has all matters reserved except for access.
- 2.3. The proposed access would be off Ashby Road. The indicative layout shows the removal of two trees where the access is proposed and replacement tree planting along the tree line adjacent to Ashby Road.
- 2.4. The following documents were submitted in support of the application;
- Application Form
 - Site Location Plan
 - Illustrative Layout
 - Design and Access Statement
 - Landscape and Visual Appraisal
 - Tree Survey
 - Phase 1 Desk Study Assessment
 - Transport Assessment
 - Travel Plan
 - Ecological Appraisal
 - Consultation Statement
 - Flood Risk Assessment
 - Noise Assessment
 - Heritage Assessment

3. Description of the site and surrounding area

- 3.1. The application site is situated to the North of Ashby Road, Markfield, outside of the defined settlement boundary. The application site is approximately 3.66 hectares with approximately 0.25 hectares of the site lying within Hinckley and Bosworth. The land within Hinckley and Bosworth Borough comprises an existing gate to the field and trees. The trees are protected under a County Council Tree Preservation Order (49/00001/TPORD).
- 3.2. The application site is situated within the National and Charnwood Forest, and is bound by Ashby Road to the south, the motorway to the north. The site comprises of three separate paddocks divided by a combination of post and rail fencing and hedgerow with mature trees.

4. Relevant planning history

None Relevant.

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. 13 letters of objection from 10 addresses have been received from third parties raising the following concerns:

- 1) Single access dangerous
- 2) Impact upon infrastructure
- 3) Loss of countryside
- 4) Contrary to Markfield NDP
- 5) Important wildlife site
- 6) Create a permanent noise disruption
- 7) Light pollution
- 8) Issue with pedestrian safety
- 9) Overdevelopment of the site
- 10) Loss of amenity

6. Consultation

6.1. No objection, some subject to conditions and/or obligations have been received from:

- LCC Ecology
- HBBC Affordable Housing
- LCC Tree Officer
- HBBC Drainage
- HBBC Environmental Health
- LCC Drainage
- HBBC Pollution
- LCC Highways
- LCC Developer Contributions
- Leicestershire Police
- Leicestershire CCG

6.2. Markfield Parish Council comments that the development is contrary to the made Neighbourhood Development Plan. In addition, the development will also place an unbearable pressure on key infrastructure i.e. GP services. The site lies outside of the settlement boundary and in a highly sensitive area which will encroach onto Charnwood Forest. The access from Ashby Road is of concern as it would be dangerous and create an additional burden on the highway network.

7. Policy

7.1. Markfield Neighbourhood Plan (2020)

- Policy M1: Countryside
- Policy M3: Green Infrastructure
- Policy M5: Trees
- Policy M9: Locally Valued Heritage
- Policy M15: Housing Provision
- Policy M16: Housing Allocation – Land south of London Road

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester

7.3. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding

- Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
- 7.5. Other relevant guidance
- Good Design Guide (2020)
 - National Design Guide (2019)
 - Leicestershire Highways Design Guide
 - Landscape Character Assessment (2017)
 - Leicestershire Highways Design Guide
- 8. Appraisal**
- 8.1. Key Issues
- Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Heritage
 - Impact upon trees
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Drainage
 - Impact upon Public Rights of Way
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 - Other matters
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addition to this, within Markfield centre the following economic activity: beauty salon, hot food takeaways, hairdressers, financial advisor, hardware store, convenience stores and supermarket (co-op) (This is supported in the District, Local and Neighbourhood Centre Review (2015) and the Community Facilities Review (2013)). In this sense Markfield is an economically and socially sustainable settlement.

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- 8.8 In relation to paragraph 11(d), paragraph 14 of the framework states that where an application applies for housing, the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits (subject to criteria. Markfield Neighbourhood Plan was made in September 2021 and is less than 2 years old and therefore supersedes the housing requirement within the Core Strategy and Site Allocations DPD.
- 8.9 Policy M15 of the Markfield Neighbourhood Plan identifies a housing requirement of 334 dwellings up to 2036. Taking into account completions and commitments this leaves a residual requirement of 280 dwellings to be provided within the neighbourhood plan area. Policy M16 of MNP allocates the land south of London Road for 280 dwellings to meet the residual requirement. This site now has planning permission for 282 dwellings and is classed within the Residential Land Availability Statement (2020-21) as deliverable. It should be noted that the majority of this site is not within the administrative boundary of HBBC and therefore this site could not be considered through the Neighbourhood Plan process.
- 8.10 The site is located outside of the settlement boundary of Markfield, within the countryside and therefore any application should be assessed against Policy DM4 of the SADMP and Policy M1 of the MNP.
- 8.11 Policy DM4 of the adopted SADMP seeks to protect the intrinsic value, beauty and open character and landscape character through safeguarding the countryside from unsustainable development.
- 8.12 DM4 states Development in the countryside will be considered sustainable where:
 - a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or

- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and:
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii) It does not create or exacerbate ribbon development;
 - iv) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21

8.13 Policy M1 of the MNP states that the following types of development will be supported in countryside locations:

- 1) Recreation and tourism that cannot be provided within the Settlement Boundary;
- 2) Development by statutory undertakers or public utility providers;
- 3) The subdivision of an existing residential dwelling; and
- 4) Development that is otherwise in accordance with: national policies, or strategic planning policies or allocations; or with the other policies of the Neighbourhood Plan.

8.14 The illustrative masterplan shows only the access, part of the road, the tree line and a minor part of the unadopted 'Lane 2' within Hinckley and Bosworth Borough Council's boundary. These parts of the proposal do not come under any of the categories identified in DM4 as sustainable development and so there is a conflict between the proposed development and the policy. The proposals within HBBC would not undermine the physical separation between settlements or exacerbate ribbon development. Its impact upon the countryside will be assessed within the character section below.

8.15 Policy M1 of the MNP is complied with subject to the development being in accordance with national and local policies.

8.16 As the area within HBBC contains no housing development paragraph 14 of the NPPF does not apply to Hinckley and Bosworth's part of the site and therefore the conflict with Policy DM4 of the SADMP and Policy M1 of the MNP will be weighed within the tilted balance.

Design and impact upon the character of the area

8.17 Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived

separation and open character between settlements and does not create or exacerbate ribbon development.

- 8.18 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.
- 8.19 The site falls adjacent to HBBC Landscape Character Area (LCA) A: Charnwood Forest Settled Forest Hills, where the majority of the Borough's woodland is found. Rectilinear agricultural fields make up much of the land cover in the area and these are arranged in an irregular pattern, well-defined by hedgerows and hedgerow trees, which add to the perception of a well-wooded context. Smaller blocks of deciduous woodland plantations also break up the expanse of agricultural fields, as well as frequent historic quarries which are scattered throughout the landscape within this character area. Markfield is well integrated in the landscape because of the rolling topography and wooded character and is well connected by a good road network with links to Leicester via the M1, A46 and A50.
- 8.20 The Landscape Character Assessment (2017) sets out key sensitivities of this LCA which include;
- Late to post medieval enclosure, ridge and furrow as well as some assarts in and around Ancient Woodland contributes to the sense of place and provides continuity to the agricultural past.
 - Large mature woodlands and newer woodland plantations interspersed throughout the landscape create a well-wooded context and create relatively tranquil subareas away from the busy roads.
 - The distinct historic cores of the villages with an abundance of local building stone provide a strong sense of place and a sense of time depth.
- 8.21 In accordance with this strategy the proposal should seek to conserve and enhance the historic core of the village, promote characteristic building forms and integrate within this wooded landscape. It should also support the vision of the National Forest Strategy by planting native and mixed species woodland. Conserve and enhance the well wooded character of the landscape. Promote woodland management such as coppicing and ground flora diversification, as well as hedgerow tree planting.
- 8.22 The illustrative masterplan shows the retention of the existing boundary tree and hedgerow planting aligning with the landscape strategies for this LCA, and would help integrate development in to the landscape.
- 8.23 The proposed access would be approximately 5.5 metres in width and would extend into the site. Two trees within the Tree Preservation Order group would need to be removed in order to provide this access however it is not considered that the removal of these trees would have a significant detrimental impact upon the character of the area – this is assessed further within the impact upon trees section.
- 8.24 The level of development proposed within the HBBC administrative boundary is considered to be minor. The proposed access would introduce hardstanding into a rural location however it would not be out of character within Ashby Road. It is not considered that the additional tarmac surface required for this development would have a detrimental impact on the open character of the countryside in this location. Therefore, the proposal would comply with Policies DM4 and DM10 of the SADMP.

Heritage

- 8.25 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.26 Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.27 Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.28 Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 8.29 Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) Development Plan Document seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate:
- a) An understanding of the significance of the heritage asset and its setting, and
 - b) The impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
 - c) How the benefits of the proposal will outweigh any harm caused
 - d) Any impact on archaeology in line with Policy DM13
- 8.30 All development proposals affecting the significance of heritage assets and their setting will be assessed in accordance with Policy DM11 and will require justification as set out in this policy. Policy DM12 states that development proposals should ensure the significance of a conservation area is preserved and enhanced, and that development proposals should make every effort to retain the significance of locally listed heritage assets.
- 8.31 Policy M9: Locally Valued Heritage Assets of the Markfield Neighbourhood Plan states that development proposals that will affect the following local valued heritage assets (which includes the Queens Head and Council Houses on Ashby Road) or their setting will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.32 In determining applications, paragraph 194 of the NPPF and Policy DM11 of the SADMP requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 195 of the NPPF also requires local planning authorities to identify and assess the particular

significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. That required assessment has been undertaken in the body of these comments. The Heritage Assessment that has been prepared to accompany the application identifies the significance of affected heritage assets; this document is considered to be proportionate and meets the requirements of paragraph 194 of the NPPF and Policy DM11 of the SADMP.

Affected heritage assets

- 8.33 There are designated heritage assets located within the vicinity of this application site (particularly to the south) which includes the Markfield Conservation Area, the Church of St. Michael, this being a grade II* listed building that is a prominent feature within the landscape, and the grade II listed Old Rectory which is located within the settlement's historic core. The Markfield Neighbourhood Plan also identifies twenty-four non-designated heritage assets within the Parish and these closely align to significant local buildings identified within the Markfield Conservation Area Appraisal (MCAA) (2010).
- 8.34 As there are heritage assets located within a proportionate search area around the application site, it must be assessed if the site falls within the setting of these assets. The NPPF (Annex 2) defines the setting of a heritage asset as "the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral." Historic England provide advice on the setting of heritage assets in their Good Practice in Planning Note 3 (2015), this identifies that the surroundings in which an asset is experienced may be more extensive than its curtilage. The extent and importance of setting is often expressed by reference to visual considerations.
- 8.35 Historic England recommends undertaking a five step approach to assessing change in the setting of heritage assets. The first step is to identify which heritage assets and their settings are affected by the proposal.
- 8.36 Due to either the topography and presence of intervening built form and vegetation there is no clear or particular inter-visibility between the application site and any listed buildings and the majority of the non-designated heritage assets identified within the Markfield Neighbourhood Plan and MCAA, nor is there any known key historic, functional or other relevant relationships between the application site and these heritage assets. The application site is therefore not considered to fall within their setting and none of these heritage assets would be sensitive to or affected by an appropriate form of development within the application site.
- 8.37 The built development to the western side of Main Street and to the north of Forest Road, in addition to its varied topography, means there is no inter-visibility between the application site and these areas of the Markfield Conservation Area. There is however some inter-visibility between the site and the closest section of the conservation area, marked by the junction of Main Street and Ashby Road. There is a small cluster of significant local buildings (and locally valued heritage assets / non-designated heritage assets) located within this section of the conservation area. Intervening built form and vegetation prevents or greatly limits inter-visibility between the application site and Town Head Farm and the Old Police House nor is there any known key historic, functional or other relevant relationships between the application site and these heritage assets. Of those local heritage assets located within the conservation area the only asset where there is a visual relationship to the application site is The Queens Head public house.

- 8.38 The Council Houses on Ashby Road are features of local heritage interest identified within the Markfield Neighbourhood Plan. They are located opposite the south-western corner of the application site and there is some inter-visibility between the application site and the front elevations and gardens of the Council Houses between the intervening vegetation.
- 8.39 The application site is therefore considered to fall within the setting of the Markfield Conservation Area and the local heritage assets The Queens Head and the Council Houses on Ashby Road.
- 8.40 No assessment has been made of the impact of the proposal upon Home Farm, Priory Lane, Ulverscroft, which is a locally listed building identified by Charnwood Borough Council and is located within that local authority boundary.

Significance of affected heritage assets

- 8.41 Step 2 is to assess the degree to which these settings make a contribution to the significance of the heritage asset or allow significance to be appreciated.
- 8.42 The Markfield Conservation Area comprises the historic core of the village and has an organic street pattern, building style and use of materials, including the prevalent use of local stone. Buildings within the conservation area variously relate to the agricultural and industrial heritage of the village which remains discernible within the built form. The significance of the conservation area is vested within its historic and evidential value as a rural agricultural community which also developed into a centre for framework knitting. This heritage is reflected in traditional cottages, farmsteads and local vernacular buildings of architectural interest which are interspersed within the streetscene.
- 8.43 The conservation area is largely surrounded by modern housing development which reflects the expansion of the village during the 20th century and in many instances prohibits expansive views outwards within its boundaries. Some sections of the conservation area do remain close to adjacent to surrounding fields however and this includes the area near the application site, described as the norther gateway to the conservation area within the MCAA: *At the northern edge of the designated area the approach from both the east along Leicester Road and the west along Ashby Road follows the line of the former turnpike road which is arrow straight. At its junction with Main Street, the strategically sited former Police House and Town Head Farm, are a rather formal entrance. This formality is emphasised by the avenue of trees along the northern side of Ashby Road, which together with the grass verges and dry stone walls provides a natural link with the countryside beyond the limits of the village and the densely built up historic core of the village.* As such the conservation area is primarily experienced within a developed setting but where views of surrounding fields are possible they can be expansive and do contribute to the understanding of the agricultural history and rural setting of the village.
- 8.44 The site is currently largely undeveloped and has been used for agricultural purposes during its history. Currently from within the conservation area the site is only barely visible from the vicinity of the Queens Head in the position of an important view along Ashby Road as identified in the MCAA. Visibility of the site does increase considerably when leaving the conservation area along Ashby Road. Given the distance between the conservation area and the site, the topographical changes, some built form already experienced in the views, and the presence of some partially screening features including the band of trees and dry stone walls, it is considered that the site makes a minor contribution only to the significance of the conservation area by allowing for an appreciation of its rural setting. It therefore currently comprises a minor positive element of its wider setting.

8.45 The Queens Head is a three bay two storey slate roofed building that likely dates from the early 19th century. Its heritage significance is primarily vested within its age and illustrative historical interest as part of the social development of the village although it does retain some limited architectural interest derived from its vernacular form with tall chimney stacks. Its open car park to the west and roadside gateway position ensure it is a local landmark along Ashby Road meaning it has a relatively wide setting which allows for its significance to be appreciated. Whilst there is some inter-visibility between the between the Queens Head and the application site the public house itself derives no particular significance from the application site as a series of paddocks so the site is considered to form a neutral element of its setting.

8.46 The heritage significance of the Council Houses on Ashby Road is primarily vested in the architectural value of their built form which allows for an appreciation of their role in the social history of the village. Whilst there is some inter-visibility between them and the application site, they derive no particular significance from their wider setting to the north and the site is considered to form a neutral element of their setting.

The proposal

8.47 A site layout plan has been submitted which indicates details of the proposal. A new vehicular access is proposed off Ashby Road to the south-eastern corner boundary of the site. Dwellings would be sited within the central core of the site. Surface water attenuation ponds and areas of landscaping would be sited around the edge of the site. Boundary vegetation including mature trees is indicated to remain on the site plan as are some existing field boundary hedgerows within the interior of the site.

Impact of the proposal upon the significance of affected heritage assets

8.48 Step 3 of the Historic England Good Practice in Planning Note 3 is to assess the effects of the proposal, whether beneficial or harmful, on the significance of affected heritage assets or on the ability to appreciate that significance.

8.49 The site has been assessed as a minor positive element of the wider setting of the Markfield Conservation Area. The proposed development will be set back with the application site from Ashby Road on a north facing slope. There is separation from the conservation area due to the intervening distance and the visual representation of modern housing to the west of Town Head Farm and the rising ground between the site and the Queens Head. This effectively obscures views to and from the development site and limits any experience of the conservation area to roof lines and distance street frontage. The effect of the walling and tree line along Ashby Road, the position of the dwellings set slightly back into the site and the sloping topography will greatly limit views from within the conservation area, which would be from around the position of the Queens Head. It is therefore considered that whilst the proposed development of the application site may result in a negligible visual change in some distant and limited views from the conservation area, the development would not appear as particularly incongruous or a harmful addition given the presence of some surrounding built form and the overall impact upon the conservation area from the introduction of the proposed development within its wider setting would be negligible.

8.50 The proposal has no physical impact upon the Queens Head and Council Houses on Ashby Road as non-designated heritage assets but it does result in a minor change to their setting. Given that this setting makes no particular contribution to their significance and the development would be experienced alongside the partially established developed character of the area to the west, south and east the proposed development of the site will maintain its present neutral role within the

setting of these non-designated heritage assets. An appreciation of the significance of these heritage assets would also be maintained via views towards them from within the undeveloped and landscaped development site frontage along the higher ground of Ashby Road.

Heritage Summary

- 8.51 This proposal affects the significance of the Markfield Conservation Area and the non-designated heritage assets the Queens Head and the Council Houses on Ashby Road by virtue of its location within the wider setting of these heritage assets. Overall the proposal is considered to have a neutral impact causing no harm to their significance. The proposal therefore preserves the significance of the Markfield Conservation Area, the Queens Head and the Council Houses on Ashby Road and consequently it accords with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and Policy M9 of the Markfield Neighbourhood Plan.
- 8.52 Step 4 in the Historic England assessment approach is to explore ways to maximise enhancement and avoid or minimise harm. It is considered that there is no particular means to achieve an enhancement to the setting of affected heritage assets via this proposal.
- 8.53 Step 5 relates to making and documenting the decision and monitoring outcomes. Such recommended good practice has been achieved by setting out the assessment stage of the decision-making process in an accessible way in the body of this report.

Impact upon trees

- 8.54 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area.
- 8.55 The application proposes to remove two trees which are protected by a County Tree Preservation Order in order to provide the access. A further 9 trees will also be removed which are protected. LCC Tree Officer has no objections to the application. A tree survey has been submitted as part of the application as well as an arboricultural method statement.
- 8.56 Tree coverage and boundary trees and hedgerows are important to the landscape character of the area. Policy M5 of the Markfield Neighbourhood Plan also sets out that trees help define the character of the area. The neighbourhood plan also states that “where trees or hedgerows of lower arboricultural and amenity value are to be lost, then native species replacements should be planted in locations where they would have the opportunity to grow to maturity, increase canopy cover and contribute to the local ecosystem and the appearance of the area”. All of the trees proposed to be removed as unclassified trees and their removal will help promote the vitality of the tree group. The proposed access is located away from the root protection of Category A and B trees although there will still be conflict with the root protection area of some category B trees. Due to this an arboricultural method statement was asked for and received. This statement will be conditioned in order to protect the nearest Category B trees.
- 8.57 In regards to the Category U trees lost, replacement trees will be conditioned to be replaced by similar species and within the administration boundary of Hinckley and Bosworth so that the character of the site and area can be retained. .
- 8.58 Subject to conditions the proposed loss and replacement of trees on the site therefore complies with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.59 Policy DM10 of the adopted SADMP seeks to ensure that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.60 The development in the Hinckley and Bosworth boundary is considered to be minor. The proposed development would not have an adverse impact upon the nearest residential dwellings.
- 8.61 If the overall scheme is considered the indicative plan shows the site could incorporate the majority of Charnwood's Open Space requirements and that the other requirements will be deferred to contributions within the Section 106 agreement.
- 8.62 The indicative layout shows the dwellings towards the front of the site being set back considerably from Ashby Road. With the mature tree line to the front of the site there will be considerable screening and therefore there would be no adverse impact upon the properties on Ashby Road.
- 8.63 No. 50 Ashby road is the closest residential dwelling to the site and is set approximately 15 metres from the boundary of the site. It is considered that the reserved matters submission will be able to design the layout of the site so that there is no conflict with this dwelling.
- 8.64 The residential amenity of future occupiers is to be determined at reserved matters stage and considered by Charnwood Borough Council.
- 8.65 Overall, it is considered that there would be no adverse impact upon the residential amenity of the neighbouring or future dwellings at this stage and therefore the proposal development within HBBC complies with DM10 of the SADMP.

Impact upon highway safety

- 8.66 Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards.
- 8.67 The application is not assessed against DM18 of the SADMP as the parking for the proposed dwellings is not within HBBC's administrative boundary. Although it is only the access within HBBC to consider whether it is acceptable the use of the site has to be taken into account and therefore this section will be assessed with that in mind.
- 8.68 A Transport Assessment and addendum and a Travel Plan has been submitted as part of the application.
- 8.69 The site access and connectivity only is for formal consideration by HBBC. The junction capacity assessments and transport sustainability has been assessed by the Local Highway Authority for Charnwood Borough Council and is considered acceptable (subject to section 106 contributions).

Site Access

- 8.70 Access to the site is proposed off Ashby Road, a C classified road subject to a 40mph speed limit. For clarity, no form of access is being proposed off the A50 to the north of the site.
- 8.71 Details of the site access arrangements are provided on MAC drawing number 454-TA10. The Applicant has proposed an access width of 5.5 metres, junction radii of 6.0 metres and 2.0 metre wide footways on either side. This is considered in

accordance with the guidance set out within Part 3 of the Leicestershire Highway Design Guide.

- 8.72 In order to ascertain the speed of traffic passing the site, the Applicant has obtained speed survey data from Leicestershire County Council, which was undertaken between 21 - 29 August 2017 in the vicinity of the site access. The speed survey indicated average 24 hour 85%ile speeds of 40.8mph south eastbound and 39.6mph north westbound. On this basis, the Applicant has detailed vehicular visibility splays of 2.4 x 120 metres in each direction on the site access drawing. These splays are accepted by the LHA as they either meet or exceed the visibility requirements set out within Part 3, Table DG4 of the LHDG. The visibility splays could be fully achieved within the existing extents of the public highway.
- 8.73 The Applicant has also submitted drawing number MAC drawing 454-TA12, which details tracking of a refuse collection vehicle entering and exiting the site in all directions. This is accepted by the LHA.
- 8.74 An independent Stage 1 Road Safety Audit (RSA) of the site access proposals has been submitted by the Applicant. This raised two problems, one being existing vegetation restricting visibility and the other being a direct footway from the site access to the existing bus stops on Ashby Road has not been provided. The Applicant has confirmed within the TA that the existing vegetation would be removed in order to provide the visibility splays.
- 8.75 Overall, the LHA considers the site access arrangements to be acceptable.

Pedestrian/ Bus Stop Connectivity

- 8.76 It was considered that the bus stops would need a footway link to be provided to connect to the site. The Applicant has advised they intend to maintain the character of the route in to Markfield as much as possible and retain the existing dry stone wall and tree line, some of which are partly protected by a Tree Preservation Order. A footway running alongside Ashby Road is therefore not proposed. The Applicant has however confirmed in Part 6 of the TA Addendum that the proposed pedestrian connection towards the west of the site would connect to the existing northern bus stop on Ashby Road using an existing gap in the wall at an existing gated access to the site. The Applicant has also confirmed that uncontrolled dropped crossing points to the existing bus stop to the south of Ashby Road would be considered at detailed design along with at the footways at the site access. Overall, this is accepted by the LHA.

Highway Safety

- 8.77 The Applicant has obtained Personal Injury Collision (PIC) data from Leicestershire County Council for the five years between 1 January 2015 - 28 November 2020. The Applicant obtained PIC data for the whole Markfield area as detailed within Appendix E of the TA.
- 8.78 The Applicant has identified two PICs which have occurred on Ashby Road, both of which were recorded as slight. The first occurred in 2015 to the south of the proposed access and involved a vehicle colliding with a parked vehicle. The second occurred at the junction of Ashby Road/ Altar Stones Lane and also involved a vehicle colliding with a parked vehicle.
- 8.79 The Applicant has advised that after studying the junctions and links within Markfield, there are also no specific patterns or trends of PICs. The LHA would highlight that there have been a number of PIC's occur at the A50 Field Head roundabout, all of which were recorded as slight, however otherwise the LHA accepts the Applicant's conclusion that there are no specific highway safety concerns within the study area. The A50 Field Head roundabout is discussed

further later in this report. Based on current records, the LHA is not aware of any additional PIC's occurring on Ashby Road between November 2020 and April 2021.

- 8.80 Overall it is considered the site access and its connectivity is acceptable and that there would be no severe highway safety impact from the proposed development. Therefore, the scheme complies with Policy DM7 of the SADMP.

Drainage

- 8.81 Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding. The Environment Agency (EA) Flood Maps confirm that the site is located within Flood Zone 1, having low probability of flooding from rivers and sea and low risk from surface water flooding. The scale of proposal does not require a site specific Flood Risk Assessment to be submitted. Nevertheless a flood risk assessment, which also includes a drainage strategy. The strategy suggests that surface water would be collected within a detention basin and SuDs features within the site and discharged at a green field run off rate.
- 8.82 The majority of the site drainage will not be within HBBC's boundary however as this is an outline application with all matters accept access reserved the conditions requested by the LLFA will also be imposed upon this application as the drainage the site should be considered as a whole.

- 8.83 Therefore the application complies with Policy DM7 of the SADMP.

Ecology

- 8.84 Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.85 Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.86 LCC Ecology deferred the assessment of the application to Charnwood's Ecologist as the majority of the site is within their administrative boundary. The application is supported by an Ecological Appraisal.
- 8.87 The site has been assessed by both Charnwood's Senior Ecologist and the applicant's ecologists and it is recognised by both parties that an amount of the grassland within the site meets the Local Wildlife Site (LWS) criteria and constitutes an important ecological feature. The Council and the applicant have considered the indicative layout as a potential direction of travel for the development of the site and have both concluded that the level of biodiversity loss resulting for the indicative development needs to be addressed.
- 8.88 It is considered that in this instance potential loss could be addressed by detailed measures secured by approval of planning conditions and approved as part of the detailed reserved matters application. It is also recommended that a mechanism be included within the Section 106 agreement that requires the reserved matters scheme to be subject to a biodiversity impact assessment (BIA) using an appropriate metric which can secure an off-site mitigation contribution in the unlikely event that the scheme does not protect against a net loss of biodiversity.
- 8.89 Overall, it is considered that a carefully considered reserved matters application could result in a development which can ensure that there is no biodiversity loss on site or that if there is unavoidable loss it is otherwise compensated for offsite. The NPPF.

Other matters

8.90 Charnwood Borough Council have considered the following aspects as part of their application and have found no conflict with policies:

- 1) Noise
- 2) Land contamination
- 3) Light Pollution
- 4) Housing Mix
- 5) Open Space
- 6) Amenity
- 7) Infrastructure

8.91 The following Section 106 contributions will be secured by Charnwood Borough Council as the development within HBBC's boundary does not trigger any contributions (HBBC will be party and signatories to the S106):

Education	A contribution of £512,132.40 towards Newtown Linford Primary School and £277,632.16 Brookvale Groby Learning Campus Secondary School.
Affordable Housing	40% of units to be affordable comprising a mix of 77% social and affordable rent and 23% shared ownership.
Open Space	The provision of off-site contributions for outdoor sports facilities £32,839.00 and allotments equating to £10,501.00 (directed towards Open Spaces in Markfield).
NHS – CCG	A contribution of £51,367.69 towards improving the capacity of Markfield Medical Centre to allow for the accommodation of 225 additional patients generated by the scheme.
Libraries	£2,810.00 towards library facilities.
Highways	<p>A contribution of £454,212 (£4,884 per dwelling) towards the extended Coalville Transport Strategy to facilitate improvements to the A511/ A50 corridor in mitigating off-site impacts from developments in the area</p> <p>The provision of raised kerbs at the nearest two bus stops.</p> <p>The provision of travel packs for each dwelling, which will include two six-month bus passes, two per dwelling.</p> <p>Sustainable Travel Accreditation and Recognition Scheme monitoring fee of £6,000.</p>
Civic Amenity	£6,080.00 towards improving waste capacity within the area.
Biodiversity Mitigation	<p>The submission of a Biodiversity Mitigation Strategy which includes a new BIA assessment (using the Warwickshire County Council calculator) with an agreed baseline for the site, at reserved matters stage. Mitigation will be provided in order of the following preference:</p> <ol style="list-style-type: none"> 1. To achieve no net biodiversity loss. 2. Mitigation on site. 3. Offsite contribution to commentary payment for a project within the vicinity of the development (to be agreed by all parties).

8.92 As shown above the contributions will be directed to services and infrastructure within HBBC, where the impact of the development will be felt. This includes the provision of Play and Open Space that accords with the HBBC Open Space and Recreation Study (2016) requirements. In addition to the above contributions the following open space will be required on site and has been conditioned to be submitted as part of the reserved matters by Charnwood Borough Council:

- 0.07ha multi-functional green open space
- 0.45ha natural and semi-natural open space
- 1 equipped LEAP
- 0.10ha multi-functional green space area
- A young people's equipment/facilities

Planning Balance

8.93 Policy DM4 sets out what type of development within the countryside is acceptable however as this is based on out-of-date settlement boundaries this policy is also classed as out-of-date but afforded significant weight. As there are out-of-date policies within the Core Strategy and Site Allocations DPD this application should be assessed within the 'tilted balance' in accordance with paragraph 11(d) of the NPPF. Therefore a presumption of sustainable development applies.

8.94 In terms of the development within Hinckley and Bosworth's administrative boundary the development conflicts with Policy DM4 of the SADMP in terms of part a-e however it does not conflict with part i-v. As there would not be any adverse impact on the character of the area which is partly countryside in line with Policy DM4 and DM10 it is considered that the conflict with Policy DM4 is moderate. Due to the proposals being in conflict with Policy DM4 the proposals are therefore also in conflict with Policy M1 of the MNP. This policy is afforded full weight.

8.95 Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably outweigh the benefits of the scheme. It is therefore important to identify any further benefits. Following the three strands of sustainability the benefits are broken down into economic, social and environmental.

8.96 The wider proposal would result in economic benefits through the construction of the scheme albeit for a temporary period (applicable to the HBBC administrative area). Additionally the residents of the proposed development would provide ongoing support to local services.

8.97 The social benefit to the area and also to the borough would be from the wider scheme by the provision of dwellings but there is not any identified social benefit from the development within HBBC.

8.98 Some environmental benefits would be provided such as the pruning of trees within the protected tree line and the removal and replacement of unclassified trees to promote the vitality of the tree line and biodiversity of the site.

8.99 The only harm identified is the conflict with Policy DM4 as the proposed works within HBBC does not fall within the a-e criteria. This harm has been classified as moderate. It is considered on balance that this level of harm does not significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a whole. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations outweigh the conflict with some elements of the development plan.

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

10. Conclusion

- 10.1. There would be no conflict with policies M3, M5, M9, M15 and M16 of the MNP, policies 7 and 8 of the Core Strategy and Policies DM6, DM7, DM10, DM11, DM12, DM13 and DM17 of the SADMP.
- 10.2. Conflict has been identified with Policy DM4 of the SADMP and M1 of the MNP. Economic and Environmental benefits have been identified. As the application should be determined within the 'tilted balance' in line with paragraph 11(d) of the NPPF it is considered that the harm would not outweigh the benefits and therefore the application is recommended for approval subject to the below conditions.

11. Recommendation

- 11.1 **Grant planning permission** subject to:
 - Planning conditions outlined at the end of this report
- 11.2 That the Planning Director be given powers to determine the final detail of planning conditions.
- 11.3 **Conditions and Reasons**
 1. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
 2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
 - a) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes

- b) Landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges
- c) Layout of the site including the location of electric vehicle charging points, the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes.
- d) Scale of each building proposed in relation to its surroundings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

Site Location Plan Drg No: 001 Revision C received by the Local Planning Authority on 15 July 2021.

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

4. Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area in accordance with British Standard 5837:2012 Trees in relation to design, any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2021).

5. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2021).

6. Within one month of the removal of the trees; details of trees, including their location within Hinckley and Bosworth Borough Council Administrative Boundary, to replace the removed trees; shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved details in the next available planting season (October to March).

Reason: To ensure that replacement trees are planted on site in the interests of protecting the amenity of the conservation area in accordance with Policy DM11 and 12 of the adopted Site Allocations and Policies Development Plan Document (2016).

7. No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

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

8. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, 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 details and timetable.

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 in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on MAC drawing number 454-TA10 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2021) and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 120 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason:: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (2021) and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with the National Planning Policy Framework (2021) and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. The new vehicular access hereby permitted shall not be used for a period of more than one month from being first brought into use unless the existing vehicular access on Ashby Road that becomes redundant as a result of this proposal has been closed permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety in accordance with the National Planning Policy Framework (2021) and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority.

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

14. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted 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 surface water drainage system (including sustainable drainage systems) within the proposed Development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

16. No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.4 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk 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 Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>.

APPENDIX B

ITEM 08

21/00787/OUT

Penland Estates Limited, RV
Millington Limited,

Site:- Land North East Of, Ashby Road, Markfield, Leicestershire

Proposal:- Residential development of up to 93 dwellings, public open space, landscaping and SuDS (Outline- access only) (cross boundary application with Charnwood BC)

Introduction:-

This application was heard at Charnwood Borough Council's Planning Committee on 1st December 2021 and the development within Charnwood is now approval subject to a section 106 agreement. Following the committee the following is reported for clarification:

1. Section 106 contribution update:

Education	A contribution of £512,132.40 towards Mercenfield Primary School (not Newtown Linford Primary School as previously reported) and £277,632.16 Brookvale Groby Learning Campus Secondary School. In addition £98,422.35 is requested for early year's education by the County Council.
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All other contributions specified within the report remain unchanged.

Recommendation:-

As previously outlined within the committee report.

APPENDIX C

Planning Committee - 18 January 2022
Report of the Director Environment and Planning

Planning Ref: 21/00787/OUT

Applicant: Penland Estates Limited, RV Millington Limited,

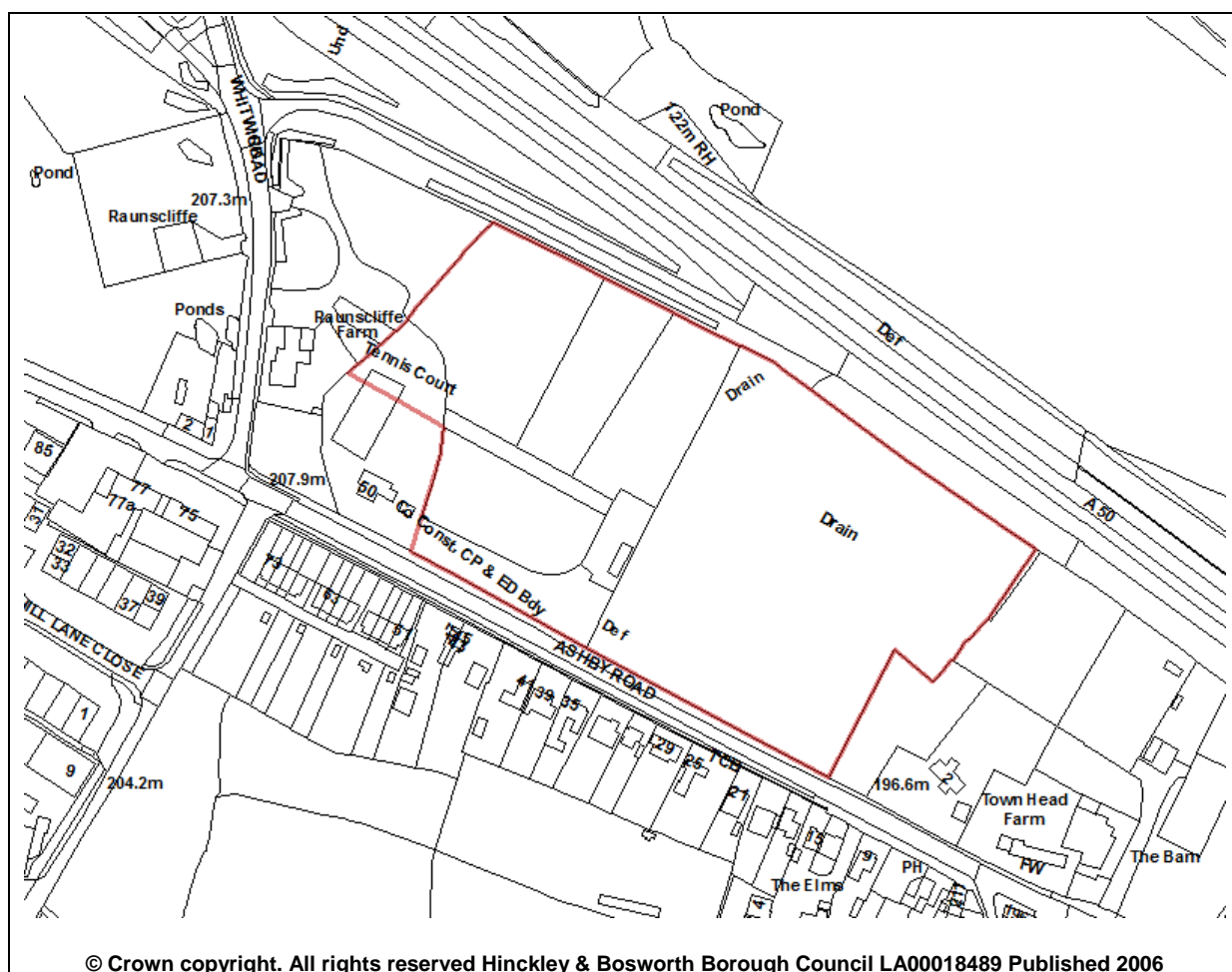
Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: Land North East Of Ashby Road Markfield

Proposal: Residential development of up to 93 dwellings, public open space, landscaping and SuDS (Outline- access only) (cross boundary application with Charnwood BC)



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1. This application was taken to the previous Planning Committee (14.12.2021). The previous report and accompanying late items are attached to this report as Appendix A and B.
2. At the committee, the item was deferred to consult with LCC Highways and Environmental Health on the impact upon neighbouring residential amenity from car headlights leaving the proposed access.
3. LCC highways have no further comments to add and state their comments are as per provided within Appendix A. Discussions with the Environmental Health officer

as still ongoing and will be reported through the late items. It was also requested that legal advice was sought on the application and this is currently taking place.

4. The late item will therefore confirm if the item on the agenda has altered from that already presented to Planning Committee and if the recommendation remains the same.

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