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Hinckley & Bosworth  
Borough Council

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**Steve Atkinson** MA(Oxon) MBA FIoD FRSA  
Chief Executive

Date: 13 June 2016

To: **Members of the Planning Committee**

Mr R Ward (Chairman)	Mr C Ladkin
Mr BE Sutton (Vice-Chairman)	Mr LJP O'Shea
Mr PS Bessant	Mr RB Roberts
Mrs MA Cook	Mrs H Smith
Mrs GAW Cope	Mrs MJ Surtees
Mr WJ Crooks	Miss DM Taylor
Mrs L Hodgkins	Ms BM Witherford
Mr E Hollick	Ms AV Wright
Mrs J Kirby	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **PLANNING COMMITTEE** in the De Montfort Suite - Hub on **TUESDAY, 21 JUNE 2016** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

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

Rebecca Owen  
Democratic Services Officer

## PLANNING COMMITTEE - 21 JUNE 2016

### A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
2. MINUTES (Pages 1 - 4)  
To confirm the minutes of the meeting held on 24 May 2016.
3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES  
To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.
4. DECLARATIONS OF INTEREST  
To receive verbally from Members any disclosures which they are required to make in accordance with the Council's Code of Conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**
5. QUESTIONS  
To hear any questions in accordance with Council Procedure Rule 10.
6. DECISIONS DELEGATED AT PREVIOUS MEETING  
The Deputy Chief Executive (Community Direction) to report progress on any decisions delegated at the previous meeting.
7. 15/00188/OUT - LAND NORTH EAST OF TRIUMPH MOTORCYCLES LTD, DODWELLS ROAD, HINCKLEY (HINCKLEY WEST) (Pages 5 - 44)  
Application for erection of up to 850 dwellings, 500m<sup>2</sup> of retail units, a primary schools, community facilities including sports pitches, parkland, children's play areas, allotments, sustainable urban drainage systems, a new access and associated infrastructure (outline – access only).
8. 14/01279/OUT - WESTFIELD FARM, KEATS LANE, EARL SHILTON (Pages 45 - 74)  
Residential development of up to 350 dwellings, 0.6ha of employment starter units, expansion of existing community facilities, access, open space and indicative landscaping (outline – access only).
9. 15/00402/OUT - LAND TO THE REAR OF 122 MIDDLEFIELD LANE, HINCKLEY (Pages 75 - 88)  
Erection of up to 9 dwellings (outline – access only).
10. PLANNING POLICIES (Pages 89 - 96)  
To be read in conjunction with the above applications.
11. APPEALS PROGRESS (Pages 97 - 100)  
Report of the Deputy Chief Executive (Community Direction) attached.
12. APPEAL DECISIONS RECEIVED  
To report on the following Planning Inspectorate appeal decisions received:
  - (a) 231 Shaw Lane, Markfield (Pages 101 - 104)

- (b) Land rear 99 to 107 Lutterworth Road, Burbage (Pages 105 - 108)
  - (c) Land east of Heath Road, Bagworth (Pages 109 - 112)
  - (d) 36 Station Road, Stoke Golding (Pages 113 - 116)
  - (e) Land adjacent Hill Rise, Desford (Pages 117 - 120)
13. DELEGATED DECISIONS ISSUED (Pages 121 - 136)  
Report of the Deputy Chief Executive (Community Direction) attached.
  14. ENFORCEMENT UPDATE (Pages 137 - 142)  
Report of the Deputy Chief Executive (Community Direction).
  15. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

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# Agenda Item 2

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### PLANNING COMMITTEE

24 MAY 2016 AT 6.30 PM

PRESENT: Mr R Ward - Chairman  
Mr BE Sutton – Vice-Chairman  
Mr CW Boothby (for Mr PS Bessant), Mr SL Bray (for Mrs GAW Cope), Mrs MA Cook, Mr WJ Crooks, Mrs L Hodgkins, Mr E Hollick, Mrs J Kirby, Mr K Morrell (for Mr LJP O'Shea), Mr RB Roberts, Mrs H Smith, Mrs MJ Surtees, Miss DM Taylor, Ms BM Witherford and Ms AV Wright

In accordance with Council Procedure Rule 4.4 Councillor Mr SL Rooney was also in attendance.

Officers in attendance: Rebecca Owen, Michael Rice, Nic Thomas, Helen Wilson and Jeff Upton

#### 17 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Bessant, Mrs Cope, Ladkin and O'Shea, with the following substitutions authorised in accordance with Council Procedure Rule 4:

Cllr Boothby for Cllr Bessant  
Cllr Bray for Cllr Cope  
Cllr Morrell for Cllr O'Shea.

It was also noted that Cllr Surtees would be late due to traffic.

#### 18 MINUTES

On the motion of Councillor Sutton, seconded by Councillor Hollick, it was

RESOLVED – the minutes of the meeting held on 19 April be confirmed and signed by the chairman.

#### 19 DECLARATIONS OF INTEREST

No interests were declared at this stage.

#### 20 DECISIONS DELEGATED AT PREVIOUS MEETING

It was noted that all decisions delegated at the previous meeting had been issued.

Councillor Surtees entered the meeting at 6.39pm.

#### 21 16/00311/OUT - LAND AT BEECH DRIVE, THORNTON

Application for residential development of up to 48 dwellings (outline – access).

Notwithstanding the officer's recommendation that the application be approved, some members felt that the development would have an adverse impact upon the countryside and was contrary to the council's aspirations for development as set out within the local plan. It was moved by Councillor Boothby and seconded by Councillor Bray that the

application be refused due to being contrary to policies NE5 and RES5. Upon being put to the vote the motion was CARRIED and it was

RESOLVED – the application be refused due to being contrary to policies NE5 and RES5.

22 16/00178/FUL - LAND TO THE REAR OF 25 & 27 BURBAGE ROAD, BURBAGE

Application for subdivision of rear gardens of nos 25, 27 and 29 and erection of four dwellings and erection of single garages for nos 25 & 27.

Notwithstanding the officer's recommendation that the application be approved, some members felt that the proposed development would have a detrimental impact on neighbours because of the impact of noise to adjacent residents and the number of dwellings and their proximity to neighbouring properties. It was moved by Councillor Bray and seconded by Councillor Wright that the application be refused for these reasons. Upon being put to the vote, the motion was CARRIED and it was therefore

RESOLVED – the application be refused due to impact on neighbouring properties and over-intensification.

23 16/00242/FUL - LAND ADJACENT TO 7 NAILSTONE ROAD, BARTON IN THE BEANS

Application for erection of 3 detached dwellings, single garage and demolition of existing buildings.

It was moved by Councillor Cook, seconded by Councillor Crooks and

RESOLVED – permission be granted subject to the conditions contained in the officer's report, as amended in the late items.

24 16/00281/FUL - KINGSCLIFFE, 48 BARTON ROAD, MARKET BOSWORTH

Application for erection of a dwelling with associated car parking.

It was moved by Councillor Cook, seconded by Councillor Sutton and

RESOLVED – permission be granted subject to the conditions contained in the officer's report.

25 APPEALS PROGRESS

RESOLVED – the report be noted.

26 APPEAL DECISIONS RECEIVED

RESOLVED – the appeal decisions be noted.

27 DELEGATED DECISIONS ISSUED

RESOLVED – the report be noted.

(The Meeting closed at Time Not Specified)

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CHAIRMAN



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Planning Committee 21 June 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 15/00188/OUT  
Ward: Hinckley Clarendon & Hinckley Trinity

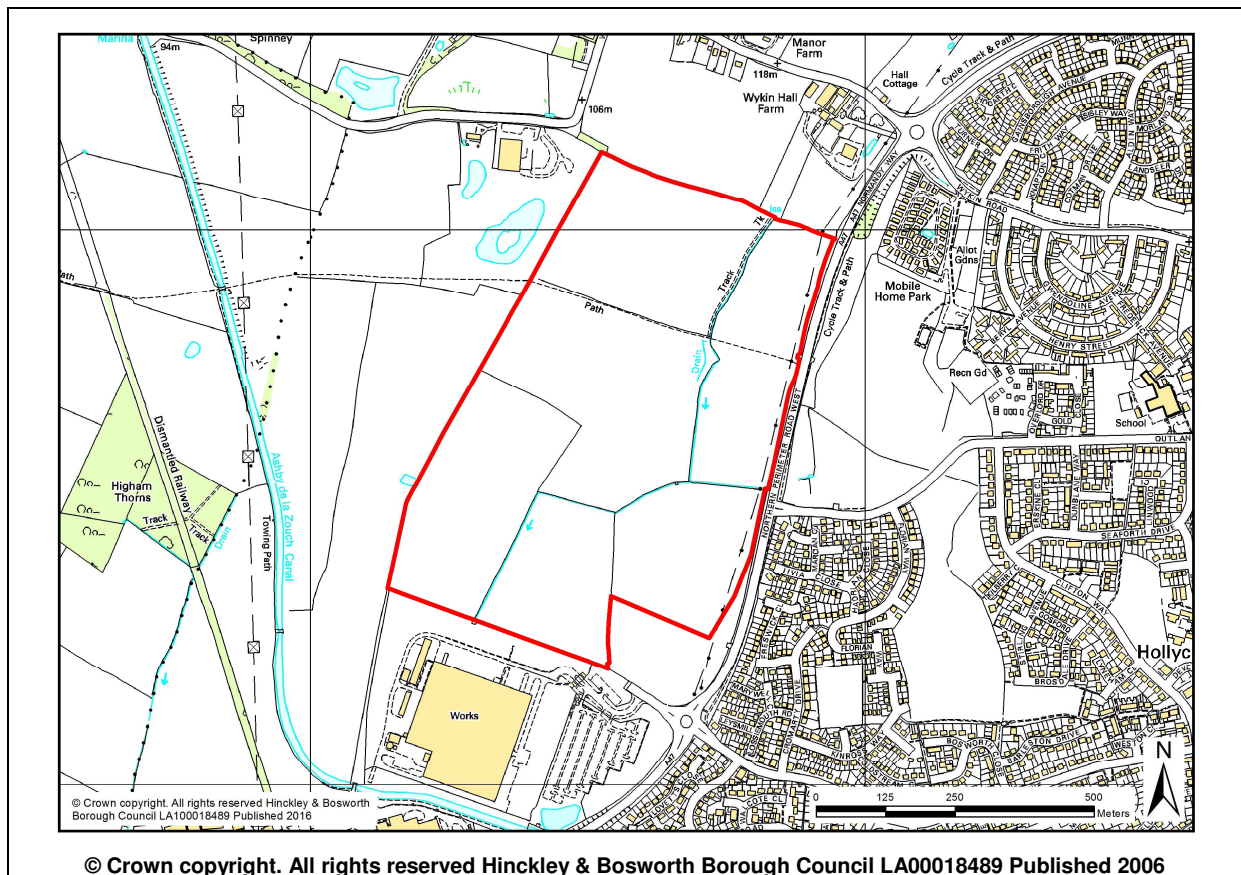
Site: Land North East Of Triumph Motorcycles Ltd  
Dodwells Road Hinckley



Hinckley & Bosworth  
Borough Council

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Proposal: Erection of up to 850 dwellings, 500m<sup>2</sup> of retail units, a primary school, community facilities including sports pitches, parkland, children's play areas, allotments, sustainable urban drainage systems, a new access and associated infrastructure (outline - access only)



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
  - Highways and Public Rights of Way Improvements - £686,619 plus travel packs, bus passes, new bus service, and a travel plan co-ordinator
  - Education - Primary £4,035,000 (or build school) and 2ha of land
    - Secondary £2,264,765.63
    - Special (SEN) - £298,454.09
  - Health - £469,489.68

- Civic Amenity - £42,101
  - Libraries – £25,650
  - Police - £277,484
  - Play and Open Space – on site provision with maintenance contribution based on a square metre figure
  - Town Centre Improvements – figure to be agreed
  - Affordable Housing – 20% on site and local connections -
- Planning conditions outlined at the end of this report.
- 1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.
- 1.3. That the Chief Planning and Development Officer be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

## **2. Planning Application Description**

- 2.1. This is an outline application with access for approval at this stage. All other matters are reserved for subsequent approval. The proposal is for the erection of up to 850 dwellings, retail (class A1 – up to 500 square metres of gross internal floor space), primary school (D1 – 7 classes, 210 pupils), community facilities (class D2), sports pitches, parkland, children’s play areas, allotments, sustainable urban drainage and associated infrastructure.
- 2.2. The development would be served by a single point of access from the A47 Normandy Way between the A47/Roston Drive and A47/Wykin Road roundabouts.
- 2.3. Whilst this is an outline application the strategic parameters for the development as a whole are provided which gives comprehensive details to enable the principle of the development to be considered.
- 2.4. A development framework plan identifies eight parcels of land for residential development, the location of the retail element is within the north eastern edge of the site adjacent to the proposed access, the school to the west of the retail area, allotments to the north eastern corner of the site, playing fields to the northern edge of the site, drainage and open space situated to the south and within the upper centre section of the site.
- 2.5. The scheme includes provision for pedestrian crossing facilities over Normandy Way (A47) including toucan crossings and another informal crossing point and highway improvement works.
- 2.6. The Design and Access Statement sets out the design principles for the scheme in detail to provide assurance about the nature, form and quality of which is proposed, including details on:
- Use and amount
  - Scale of development
  - Layout
  - Landscape principles
  - Appearance of development
  - School and retail development principles

- Movement and access
  - Sustainability statement
- 2.7. Several plans are also provided in the Design and access statement which include a concept plan, land use plan, phasing plan, layout plan, a landscape character area plan, movement and access plan and a pedestrian and cycle routes plan.

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

- 3.1. The site is located to the west of Hinckley, approximately 2km from the town centre. The site is 44.04ha of agricultural land, comprising 7 arable fields and rises from south to north, by approximately 16 metres. The site is located in both Trinity Ward and Clarendon Ward (the north and south of the site respectively).
- 3.2. The site is roughly rectangular in shape. It is bounded by a hedgerow on all sides. To the north of the site is agricultural land and beyond this Wykin Village; to the west of the site agricultural land; to the south the Triumph Motorcycle factory; and to the east Normandy Way (A47) and beyond the residential estate of Outlands Drive and the Wykin Community Park.
- 3.3. The site contains several mature hedgerows and trees. There are also two connecting streams that run north to south through the centre of the site, connecting to an existing culvert on the southern boundary. There is an 11kV overhead electricity line crossing the southern part of the site in a north-west to south-east direction.
- 3.4. Two agricultural access points serve the site from the A47 and consist of a small amount of hardstanding and a gate into the agricultural field.
- 3.5. Three public footpaths are present within the site. Public footpath U5 runs along the northern boundary of the site on an east west axis. Footpath T53 runs parallel to U5 but within the site and then crosses the A47 and runs across Wykin Community Park to Outlands Drive connecting the site to Battling Brook Community Primary School. Public footpath U6 runs along the western boundary on a north south axis and also crosses the A47 and connects the site to Wykin Community Park.

### 4. Relevant Planning History

15/00582/FUL	Development of 243 dwellings (Use Class C3), formal and informal public open space including children's play area, and associated infrastructure including highways, landscaping and sustainable urban drainage system	Decision Pending	
14/00774/SCOPE	Screening request for 850 dwellings	Not EIA Development.	18.08.2015

## **5. Publicity**

5.1. The application has been publicised by posting of site notice, publication in the local press and sending letters to local residents.

5.2. Five letters have been received in support and three letters have been received, asking for the following to be considered:

- Extra traffic on the A47 may overwhelm the roads
- School should be built sooner rather than later
- The retail unit should include a post office
- Interest shown by a local business for the retail unit
- Toucan crossings or footbridges should be provided for pedestrians crossing the A47.

5.3. Five letters of objection have been received from local residents raising the following comments:

- Development would have a significant impact upon highway safety
- Development would increase the traffic using Wykin village as a 'rat run' to the A5
- Substantial hedging should be planted on northern boundary and a noise barrier
- The development should consist of two storeys maximum
- Measures should be put in place to control the traffic through Wykin village
- Consideration should be given to public services such as dentists, pharmacy, opticians and schools, which isn't provided on site
- Traffic calming measures should be placed on Wykin Road and Higham Lane
- There are existing issues with traffic on the A47, this development would cause a standstill
- Loss of countryside and would open up all other fields around the A47 for development
- No proven need for the development
- Would decrease the value of existing homes and harm their visual amenity
- The long construction period would cause noise and pollution to existing residents
- Construction hours should be limited to 8am – 6pm Mon – Fri, 8am - 1pm Sat and no construction on a Sunday.

5.4. An objection has been received from Jelson Homes, who own land adjoining the south of the site. They state that they have an ambition to bring forward their land for development and would like to develop a comprehensive scheme in conjunction with Bloor Homes (the applicant), which would allow for an additional access into the site rather than one access point. Additionally concerns have been raised regarding the comprehensive development of the site as a whole as the masterplan does not include the Jelson Homes land and this may cause issues for developing in the future.

## **6. Consultation**

6.1. No objection has been received from:

Highways England  
Rugby Borough Council

6.2. No objection, subject to conditions have been received by:

Environment Agency  
Severn Trent Water Limited  
Leicestershire County Council (Ecology)  
Leicestershire County Council (Archaeology)  
Leicestershire County Council (Highways)  
Leicestershire County Council (Flooding) (Lead Local Flood Authority)  
Leicestershire County Council (Rights of Way)  
HBBC Environmental Health (Pollution)  
HBBC Environmental Health (Drainage)  
HBBC Waste Services  
Conservation Officer

6.3. An objection has been received from the Hinckley & Bosworth District Committee of Campaign to Protect Rural England (CPRE). The following issues have been raised:

- Development in open countryside
- Contravenes HBBC policies of development on greenfield sites
- Urbanise an attractive green wedge between Hinckley and Wykin village
- Would add further pressure onto the roads
- Would set a precedent for future development along the perimeter road
- No regard to the countryside surrounding Hinckley.

6.4. Requests for developer contributions have been received from the NHS, Leicestershire County Council and Leicestershire Police. The details of these requests are outlined within the 'developer contributions' section`.

## **7. Policy**

7.1. Local Plan 2006 – 2026: Core Strategy (2009)

- Policy 1: Development in Hinckley
- Policy 5: Transport Infrastructure in the Sub-regional Centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 24: Sustainable Design and Technology

7.2. Hinckley and Bosworth Local Plan (2001)

- Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities
- Policy RES5: Residential Proposals on Unallocated Sites
- Policy BE1: Design and Siting of Development
- Policy BE5: The setting of a Listed Building
- Policy BE13: Initial Assessment of Sites of Archaeological Interest and Potential
- Policy BE14: Archaeological Field Evaluation of Sites
- Policy BE15: Preservation of Archaeological Remains in Situ
- Policy BE16: Archaeological Investigation and Recording
- Policy BE26: Light Pollution
- Policy NE2: Pollution
- Policy NE5: Development in the Countryside

- Policy NE10: Local Landscape Improvement Area
  - Policy NE13: The effects of Development on Natural Watercourses
  - Policy NE14: Protection of Surface Waters and Ground Water Quality
  - Policy NE17: Protection of the Water Environment from the Development of Contaminated Land
  - Policy T5: Highway Design and Vehicle Parking Standards
  - Policy Retail 11: Small Local Shops
  - Policy REC1: Development of Recreation Sites
  - Policy REC2: New Residential Development – Outdoor Open Space Provision for Formal Recreation
  - Policy REC3: New Residential Development – Outdoor Play Space for Children
  - Policy REC4: Proposals for Recreational Facilities
- 7.3. Emerging Site Allocations and Development Management Policies DPD
- Policy SA2: Land West of Hinckley, Normandy Way, Hinckley
  - Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM3: Infrastructure and Delivery
  - Policy DM6: Enhancement of Biodiversity and Geological Interest
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM10: Development and Design
  - Policy DM11: Protecting and Enhancing the Historic Environment
  - Policy DM12: Heritage Assets
  - Policy DM13: Preserving the Borough's Archaeology
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
  - Policy DM21: Locating Sustainable Town Centre Uses
  - Policy DM25: Safeguarding Community Facilities
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
- 7.5. Other relevant guidance
- New Residential Development SPG
  - Affordable Housing SPD
  - Play and Open Space Developer Contributions SPD
- 8. Appraisal**
- 8.1. Key Issues
- Assessment against strategic planning policies
  - Access and highways
  - Impact upon the character of the area
  - Design of the scheme
  - Impact upon neighbouring residential amenity
  - Impact upon ecology
  - Impact upon heritage assets
  - Impact upon flood risk
  - Land Contamination and Pollution
  - Play and open space

- Sustainable design and technology
- Affordable housing
- Developer contributions (Section 106 obligations)

#### Assessment against strategic planning policies

- 8.2. Paragraph 11 - 13 of the National Planning Policy Framework (NPPF) states that the development plan is the starting point for decision taking and that it is a material consideration in determining applications. The development plan in this instance consists of the Core Strategy (2009), the saved policies of the Local Plan (2001) and the emerging Site Allocations and Development Management Policies Development Plan Document (SADMP).
- 8.3. The SADMP is at an advanced stage. An examination in public has been undertaken, a consultation upon the main modifications has been carried out and the inspector's report has been received which has found the SADMP to be sound. The document is expected to be reported to full council in July 2016 where it will be recommended for approval. Due to this document's advanced stage it is considered that the policies of this document should be given significant weight in the assessment of this planning application. The SADMP will replace all remaining Local Plan (2001) policies upon adoption. Until this point, saved local plan policies have weight in decision making. Their compliance with the NPPF and the emerging SADMP must be considered.
- 8.4. Paragraph 14 of the National Planning Policy Framework (NPPF) and emerging Policy DM1 of the Site Allocations and Development Management Policies DPD SADMP sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay.
- 8.5. Hinckley is a sub-regional centre and is identified as a sustainable location for development with a large number of community facilities, shopping provision, employment opportunities and good public transport links. Core Strategy Policy 1 supports the provision of at least 1,120 dwellings in Hinckley. The site is allocated within the Site Allocations and Development Management Policies Development Plan Document (SADMP) for a mixed use development. Policy SA2 of the emerging Site Allocations and Development Management Policies Development Plan Document (SADMP) states proposals for the site Land west of Hinckley should:
- 850 dwellings with a housing density, mix and design in line with Core Strategy Policy 16;
  - Provide a local shop or neighbourhood centre;
  - Provide a primary school;
  - Create a safe pedestrian access across Normandy Way;
  - Provide open space and play provision in line with Core Strategy Policy 19; and
  - Provide affordable housing in line with Core Strategy Policy 15
  - Provide an appropriate strategy that reduces the impact of traffic from the development on Wykin Lane through Wykin village
- 8.6. Policy 16 of the Core Strategy seeks to ensure that new build residential development to meet a minimum net density of 40 dwellings per hectare within and adjoining Hinckley; however in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable. The proposal is for 850 dwellings on a site of approximately 44 hectares; however the

net developable area is 24 hectares, disregarding land for drainage, parkland, and such. This results in a density of 35 dwellings per hectare which is less than the policy requirement. The design of the scheme is landscape-led (discussed in further detail later in the report) and retains existing hedgerows, watercourses, several veteran trees and provides a buffer for an existing water vole population. Due to this landscape led design this requires low density in certain areas. It is therefore considered in this instance that the lower density is acceptable and therefore in accordance with Policy 16 of the Core Strategy. Policy 16 also required a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, as this application is at the outline stage this detail is not provided. Due to the size of the scheme it is considered that this could be achieved and would be dealt with in the submission of reserved matters.

- 8.7. Policy 15 of the Core Strategy seeks to secure 20% on site affordable housing in urban areas (including Hinckley) with a mix of 75% social rented and 25% intermediate housing. At full council 19 June 2012 the principle of accepting affordable rent rather than social rent was accepted. The proposal is to include 20% affordable housing with a mix of 75% affordable rented units and/or social rented units and 25% intermediate unites. This mix would be secured by a Section 106 agreement.
- 8.8. Policy 19 of the Core Strategy identifies the standards to be used in relation to green space and play provision in the borough. As discussed the scheme would provide over and above the required play and green space and further detail upon this will be provided later in the report.
- 8.9. It is considered that the development would provide the requirements of Policy SA2 of the SADMP.
- 8.10. The main modifications of the SADMP extends the site allocation to include the land to the south of the application site adjacent to the Triumph Motorcycle factory (Jelson Homes land). This is at the request of the Inspector who states 'this will increase the potential housing capacity of the site and release land that would otherwise be very difficult to develop'. This application does not include this section of land. The applicant has responded to the Jelson Homes objection and identifies that the land could be accessed through the application site or a separate access from the adopted highway which abuts the land. It is considered that this application would not preclude the development of the land to the south and provisions can be made in the relevant phase to allow access through to this land or the developers can work together. This can be dealt with through a subsequent reserved matters application. While a comprehensive development of the site would have allowed links between the sites to be more easily secured, the fact that layout is reserved allows for the potential for the integration of the sites if timing permits. Even if that aspiration can't be secured, there is no reason why a high quality sustainable scheme on both sites could still not be achieved. Approval of this application would therefore not prejudice the development of the entire allocation.
- 8.11. Policy RES5 and NE5 of the Local Plan (2001) applies as the site is unallocated within the Local Plan. Notwithstanding this, due to the site being allocated for housing within the SADMP, those policies that seek to protect the countryside are inconsistent with the allocation and therefore carry limited weight. The site is identified within a Local Landscape Improvement Area within the Local Plan (2001) proposals map and therefore Policy NE10 applies. The SADMP does not include a 'Local Landscape Improvement Area' within it and therefore this policy carries limited weight. The site is currently a greenfield site and consideration must be



given to the impact of the development upon the wider area. This is considered in further detail within the section 'Impact upon the character of the area'.

- 8.12. Whilst there will be an impact upon the character of the area due to the development being on a greenfield site. However, the scheme will bring a range of social benefits including the provision of a primary school, dwellings, affordable housing, a retail store and play and open space. This is in addition to economic benefits, including construction jobs for an estimated 10 year build period, additional expenditure in the local area, new school and retail provision will provide new jobs and generate additional council tax and new homes bonus to the borough council. It is considered that the loss of a greenfield site is outweighed by the social and economic benefits.
- 8.13. The site is allocated for development in the emerging SADMP which should be given significant weight. The requirements for mitigating the impacts of the development as identified in Policy SA2 of the SADMP are fully provided for within this outline application. Whilst there will be some impact upon the character of the area due to the site being a greenfield site, the benefits would outweigh this harm. The principle of development is therefore considered acceptable, subject to all other material considerations being satisfactory.

#### Access and Highways

- 8.14. Saved Policies T5 and BE1 (criterion g) of the adopted Local Plan require that new accesses and highways work shall be in accordance with the highway design standards and the identified parking targets. Emerging Policy DM17 provides five criteria with which development should accord, requires, where appropriate, improvements are undertaken to the highways and transportation network to limit the significant impacts arising from the development and all new developments should reflect the highway design standards (The 6 C's Design Guide). Emerging Policy DM18 of the SADMP requires new development to provide an appropriate level of parking provision.
- 8.15. Core Strategy Policy 5 identifies transport interventions which are proposed to support the additional development in and around the sub-regional centre, particularly the sustainable urban extensions at Barwell and Earl Shilton. This development is a large-scale sustainable development within the Hinckley urban area and therefore this policy must be considered.
- 8.16. Paragraph 32 of the NPPF requires that all developments that generate a significant amount of movement should be supported by a Transport Assessment and decisions should take account of whether the opportunities for sustainable transport modes have been taken; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that limited the significant impacts of the development. It highlights that developments should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 8.17. The development would be served by a single point of access from the A47 Normandy Way between the A47/Roston Drive and A47/Wykin Road roundabouts. Detailed road layout is a reserved matter, but the Development Framework shows the primary access of Normandy Way connecting with primary streets running through each development parcel, then to secondary and tertiary streets within each parcel. The layout allows for a bus service to loop within the site, along the

primary street. This ensures that each property is within 400m walking distance of a bus service.

8.18. The proposal includes the following highway mitigation works, which would be secured through an appropriate legal agreement with Leicestershire County Council (Highways).

- Access to the site will be via a 3-arm, 50m diameter roundabout with the A47. Each arm will have two lanes on the approach to the roundabout. An 80m long dual-carriageway access road would link this roundabout to a smaller 4-arm roundabout which in turn, would give access to the major residential access road. Given that the quantum of development proposed exceeds that normally permitted off a single point of access, the bespoke design has been subjected to an Independent Safety Audit and has been checked and found acceptable by LCC Highway Authority engineers.
- Reduction in the speed limit along Normandy Way from 50mph to 40mph between the Roston Drive and Stoke Road (the supplemental TA suggests that the speed limit will only be changed between Roston Drive and Wykin Road however through discussions with LCC Highway the applicant has no objections to and is willing to extend the limit to Stoke Road).
- Provision of a toucan crossing a short distance south of the new site access roundabout. An additional informal crossing would be provided to the north of the roundabout.
- Reduction in the width of the carriageway of Normandy Way between Wykin Road and Roston Drive to enable widening of the existing footway/cycleway.
- Improvement to the Outland Drive junction with Normandy Way allowing vehicles to turn easier onto Normandy Way.

*Impact upon the highway network*

8.19. The application is supported by a Transport Assessment (TA) and a Framework Travel Plan. A bespoke methodology for the TA was agreed with Leicestershire County Council, Warwickshire County Council and the Highways Agency (now Highways England) at the pre-application stage. The methodology used a combination of outputs from several models (LLITM and the Hinckley and Nuneaton Paramics Model) and more traditional junction assessment tools.

8.20. To assess the impact of the development upon the highway network modelling with and without the development was undertaken by a highways consultant for junctions which could be affected by the development. The findings of this show:

- Wykin Road traffic flows west of the A47 are not materially affected by the development
- Ashby Road north of the A47 has a significant increase in traffic in the am and pm
- A5/A47 (Dodwells roundabout) would be severely affected by the development
- A47/Stoke Road roundabout would operate well below capacity and this development would not have a severe impact upon this junction
- A47/Wykin Road roundabout would operate well below capacity and this development would not have a severe impact upon this junction
- A47/Outlands Drive would be affected by this development as it would increase in delays for vehicles waiting to turn out of Outlands Drive are predicted

- A47/Roston Drive/Triumph roundabout would operate well below capacity and this development would not have a severe impact upon this junction
  - Apart from the A47 all other changes in traffic to local roads is small and includes some significant decreases (which may be due to the future improvement to the A5 between Dodwells roundabout and Longshoops junction and the widening of the A47 arm of the Dodwells roundabout).
- 8.21. The developer and LCC Highways have identified several mitigation measures to address the impacts raised through modelling. These are:
- Improvements to the A47/Ashby Road – this would allow the junction to operate well below capacity (Section 106 contribution will be required)
  - Reduction of speed limit along the section of the A47 between Roston Drive and Stoke Road and alterations to the right turn lane to provide the ability for vehicles turning right from Outlands Drive onto Normandy Way to wait in the central reservation for a gap to enter the northbound carriageway. These mitigation measures would alleviate this identified issue. This would mitigate and reduce the delays for vehicles waiting to turn out of Outlands Drive.
  - Section 106 contributions to improve the A5/A47 Dodwells roundabout to mitigate the impact of the development.
- 8.22. The applicant is agreeable to the Section 106 contributions and the necessary improvements identified on the submitted highway plans. LCC Highways therefore conclude, subject to the mitigation measures being undertaken, the development would not have a severe impact upon highway safety. Conditions are recommended to ensure the mitigation measures and the access proposed is delivered at appropriate points in the development.
- 8.23. Concerns have been raised by locals regarding the existing ‘rat run’ through Wykin Village to access the A5. It is unreasonable to expect new development to solve existing highway issues; however it is important that these do not exacerbate these problems further. The transport modelling which has been found acceptable by LCC Highways finds that Wykin Road traffic flows west of the A47 are not materially affected by the development. Also the off-site improvements proposed through this development would improve the wider highway network, specifically the A47, and reduce the need for people to use the ‘rat run’ identified at Wykin Village.
- 8.24. The quantum of development proposed exceeds that normally permitted off a single point of access. An objection, from the adjoining land owner states that this single point of access is not the best solution for this site and the land to the south should be utilised to allow a second point of access. The access to the scheme is a bespoke design which has been assessed by LCC Highway Engineers and has been subject to an Independent Safety Audit. Leicestershire County Council Highways do not object to the single point of access in this instance and it is therefore considered acceptable.

*Sustainable forms of transport*

- 8.25. Emerging Policy DM17 identifies that development should have ‘convenient and safe access for walking and cycling to services and facilities’ and ‘the need to travel will be minimised and the use of sustainable transport modes can be maximised’. The submitted travel plan includes a number of measures designed to encourage sustainable forms of transport such as cycling, walking and public transport. In addition to the footways which will run contiguously with the internal estate roads, the site will also benefit from a network of commodious traffic-free, green corridors

to enable future residents to walk and cycle to the main destinations within the site such as the school and local centre. Externally improvements are to be made to the existing footway/cycleway provision along the eastern flank of Normandy Way thus improving access to the Dodwells Road industrial area, secondary schools and retail areas amongst others.

- 8.26. The applicant has been in discussions with a bus provider and has agreed to provide a bus service to Hinckley Town Centre half hourly 7am – 7pm Monday to Saturday for a period of five years from the start of the service at the occupation of the 50<sup>th</sup> dwelling. The bus provider has indicated that they would consider that such a service is likely to be commercially viable within 5 years of commencement. To promote the use of sustainable transport modes and establish changes in travel behaviour from first occupation the applicant will provide travel packs and two six-month bus passes per dwelling.
- 8.27. Two Public Rights of Way (U5 & T53) traverse the site and are intended to be improved to provide high quality connections to Hinckley to the east and the Ashby Canal to the west. In addition U6 abuts the western site boundary and would also be improved as part of the proposals.
- 8.28. A S106 contribution is sought for those sections of U5, U6 and T53 outside the site boundary to the west of the site, including refreshing waymarking furniture, small scale drainage/surface improvements, and the repair/replacement of any access furniture. The purpose of these works will be to residents who are employed at either the Dodwells Bridge or Harrowbrook Industrial Estates to walk to work and encourage recreation use.
- 8.29. To the east of Normandy Way, a S106 contribution is sought for T53 and the existing paths within Wykin Park which would be improved to provide a high quality link to the park, Redmoor High School and Hinckley town centre beyond.
- 8.30. A condition is recommended which requires a residential travel plan to be submitted for each phase and a travel plan for the school. Additionally a condition is recommended requiring the submission of a public transport strategy for the site. These conditions would ensure sustainable modes of transport are promoted through this development.

#### *Parking provision*

- 8.31. As this is an outline application with access being the only matter for consideration the parking provision is not proposed at this stage. Each phase will need to identify parking provision which would be assessed through subsequent reserved matters applications.

#### *Impact upon the highway network during construction*

- 8.32. Due to the large scale nature of the development, the long timescale for delivery and the close proximity to the A47 and several key junctions the construction could have a significant impact upon the highway network. These impacts can be mitigated and a condition is recommended which required the submission of a construction environmental management plan.
- 8.33. LCC Highways have recommended two conditions, one requiring the submission of all details of the proposed development and its compliance with current design standards prior to the commencement of development and another requiring a side

wide Phasing Plan. It is not considered reasonable to include these conditions as these details may not be known for the entire site as it will be completed in phase and the phasing detail is provided in the design and access statement which supports the application. It is considered any additional details can be obtained through subsequent the reserved matters applications and therefore this condition is not necessary.

- 8.34. The design principles, mitigation measures, recommended conditions and Section 106 contributions would ensure that the development would not have a severe impact upon the highway network. Sustainable modes of transport will be encouraged throughout the development and links to the town centre through improvement of footpaths/cycleways and the provision of a bus. The development will also contribute towards the improvement of the wider transport infrastructure in the sub-regional centre. The development is therefore in accordance with Policy 5 of the Core Strategy, Policy T5 of the Local Plan, emerging Policies DM17 and DM18 of the SADMP and paragraph 32 of the NPPF.

#### Impact upon the Character of the Area

- 8.35. Saved Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the SADMP requires that development complements or enhances the character of the surrounding area and incorporates a high standard of landscaping.
- 8.36. The site is a greenfield site which includes a number of mature hedgerows, trees and watercourses. It is relatively open and rises in height to the north. Within Hinckley & Bosworth Landscape Character Assessment (2006) the site is identified as being within the Stoke Golding Vales Character Area and its key characteristics are:
- Predominately flat with only gentle undulations
  - Mix of arable and pasture with frequent individual trees.
  - Medium scale rectilinear field pattern bounded by mixed hedgerows with scattered hedgerow trees and small copses.
  - Settlement usually associated with local high points.
  - Area criss-crossed by network of small lanes and public footpaths. The Ashby Canal features numerous attractive canal bridges.
  - Stoke Golding is an attractive settlement clustered around its prominent church, close to the Ashby Canal.
  - Area is open and expansive with views occasionally limited by vegetation.
  - This is generally a tranquil, rural character area despite the proximity of Hinckley and the A5.
- 8.37. The assessment identifies that the landscape character is medium to high sensitivity with limited capacity to accept significant change, due to the little urban influence to the majority of the area.
- 8.38. The site lies on the edge of the landscape area and does not experience the 'tranquil' nature due to its proximity to Hinckley, Normandy Way (A47) and the employment development to the south. The site is an urban fringe site acting as a transition between the urban area of Hinckley to the wider remote countryside.
- 8.39. The development of this greenfield site would have an impact on the character of the immediate area, however the wider impact would be limited, subject to appropriate landscaping and design, due to the position on the urban fringe of Hinckley.

- 8.40. The scheme is landscape-led in its design which will ensure that the existing key landscape features will be retained and improved. This will aid in mitigating the impact upon the wider landscape.
- 8.41. Concerns have been raised by residents regarding the urbanisation of what has been described as the 'green wedge' between Hinckley and Wykin village. This description is inaccurate as there is no formal designation in this area in policy terms. This scheme does not reach the village of Wykin and leaves a substantial field between the development and Wykin village providing a separation distance of approximately 200 metres. Wykin village is surrounded by open countryside on all sides, but abuts the Hinckley urban area to the east. It is considered that this scheme would not enclose Wykin village within Hinckley, due to the existing open countryside to the north and west and the open field to the south. Additionally the design of the scheme includes the playing fields and allotments to the north to provide a green edge and buffer to the northern boundary of the site.
- 8.42. The development would have an impact upon the character of the site due to its greenfield nature. The site is located on the urban fringe of Hinckley and is bound by the A47 and residential development to the east and employment buildings to the south. Therefore whilst the site is currently countryside it cannot be identified as 'tranquil' as other areas within the character area. The design of the scheme is landscape led and seeks to retain the most significant features on site and develop the design around this. The indicative site layout identifies more open space than is required by policy to provide a 'green' character. It is therefore concluded that the scheme would have a limited impact upon the character of the area and would not be harmful to the impact of the wider countryside.

#### Design of the Scheme

- 8.43. Saved Policy BE1 of the Local Plan and emerging Policy DM10 require developments to complement and enhance the character of the surrounding area.
- 8.44. Paragraph 56 of the NPPF states good design is a key aspect of sustainable development and is indivisible from good planning and should contribute positively to making places better for people.
- 8.45. This scheme has been subject to a design review with OPUN with a view to agreeing the detailed urban design principles for the scheme. Detailed discussions have also taken place involving urban design consultants to make sure that the layout, form, scale, architecture, landscaping and materials create a high quality living environment for future residents. The key themes which came out of these meetings were:
- Landscape-led approach is essential
  - The hostile environment of Normandy Way needs to be addressed by providing attractive and safe pedestrian and cycling environment
  - The development should include a strong entrance gateway with strong links between the community uses
  - A comprehensive, well-connected, genuinely permeable development with strong linkages is fundamental
  - Importance of character areas and to be informed by consideration of 'place' rather than road infrastructure
  - Lack of architecture within the immediate environs provides an opportunity to create a new and distinctive/different offer.

- 8.46. The scheme has evolved following these early discussions and a revised Design and Access Statement has been submitted to respond to the points identify. The Design and Access Statement includes the design principles for the development. Whilst this is an outline application (access only) indicative layouts and illustrations have been provided to support the design principles of the scheme.
- 8.47. The scheme is landscape-led and using this approach the design has been based around the existing watercourses, hedgerows and veteran trees on site. The key character areas of the site would be the Central Parkland, retail site, school site, ecological areas, open spaces, outdoor sports pitches, allotments and the residential development. The residential development will form a large majority of the site and will be broken down into several character areas:
- *Primary Street* – formal in character, semi-detached/detached dwellings, location of bus route, front gardens large enough to accommodate trees, boundary treatments formal hedgerows
  - *Side Street* – semi-formal character, smaller dwellings than those on primary street, small or no front gardens, some parking to front of dwellings, regular symmetry
  - *Parkland Edge* – formal character with consistent straight building lines, formal Georgian style elevations, potential for 2.5/3 storey feature groups, boundary to park to be estate railings, formal hedgerows to front boundaries
  - *Green Corridor Edge* – informal character arranged along edges of semi-natural open space, generally detached, simple detailing, mix of dwellings, two storeys
  - *Square/Nodes* – group of dwellings with potential for higher storey than surrounding, different public realm treatment, areas which act as a wayfinding points within the development
- 8.48. A tree strategy is also included within the design principles for each character area indicating appropriate species, locations, sizes and legibility/wayfinding.
- 8.49. A material matrix is also included to provide an indication on appropriate material and establish difference character for each area.
- 8.50. The design principles for the retail are to ensure its positioning addresses the new access roundabout on Normandy Way to provide a visible landmark, high quality public realm with feature landscaping, the provision of parking and service areas to be in less prominent locations.
- 8.51. The design principles for the new primary school includes siting to ensure it is a widely visible landmark building, high quality public realm and with key architectural features, provision of appropriate parking and drop off area, good links with playing fields to the south and good pedestrian links to the residential area.
- 8.52. The design principles of the scheme have also been reviewed by an independent Urban Design consultant instructed by the council. The consultant is satisfied that the design principals set for the outline application are appropriate to the site and will allow the council to secure a high quality design scheme at the reserved matters stage.

- 8.53. A condition is included to require all reserved matters phases to be designed in accordance with the identified design principles outlined within the Design and Access Statement.
- 8.54. The design principles would allow the delivery of a high quality scheme through the submission of reserved matters for each phase of the scheme and is therefore in accordance with saved Policy BE1 of the Local Plan (2001) and the emerging Policy DM10 of the SADMP.

Impact upon Neighbouring Residential Amenity

- 8.55. Saved Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the SADMP state that developments should not have a significant adverse affect upon the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.56. Residential dwellings are to the east of the site but are separated by the A47. Several residential dwellings lie to the north of the site, but are separated by a large agricultural field. Due to the distance to these dwellings it is not considered that the development, in its finished form, would have a detrimental impact upon existing residential amenity with regards to overlooking, overbearing, impact upon privacy, air quality and lighting. The construction of this site may provide noise and dust within the immediate area and therefore a construction management plan and restrictions on construction hours are included to protect the amenity of nearby residential dwellings.
- 8.57. To the south of the site is the Triumph Motorcycle factory. The indicative design of the site identifies the ecological area and SUDs features to the south of this site. This would provide a buffer between the existing factory and the proposed dwellings. This would ensure that there is no negative impact from the future development upon the existing factory with regards to complaints from future residents from noise disturbance.
- 8.58. Environmental health has requested an environmental management plan, no burning of waste materials are conditioned to protect the amenity of existing and future residents. It is considered this is necessary to ensure that the development does not create issues with existing and future residents. Additionally the following construction hours have been requested to be conditioned:
- 8am – 6pm – Monday – Friday
  - 9am – 1pm Saturdays
  - No work Sunday or Bank Holidays

The applicant has requested earlier construction times of 7:30am Monday – Friday due to the distance of nearby neighbouring properties. However, due to the size of the development and the numerous phases, construction will occur on site when some properties of the scheme are completed and lived in. Therefore construction hours of 7:30am would be detrimental to the residential amenity of future residents. The suggested hours from Environmental Health are considered reasonable and is included.

- 8.59. The development would therefore not have a detrimental impact upon the amenity of neighbouring residents or businesses.



### Impact upon Ecology

- 8.60. Emerging policy DM6 states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.
- 8.61. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment. Paragraph 118 of the NPPF states that opportunities to incorporate biodiversity in and around developments should be encouraged and planning permission should be refused for development resulting in the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.
- 8.62. There are no statutory designated sites inside the site boundary.
- 8.63. The applicant has submitted a Preliminary Ecological Appraisal. The key findings are:
- The statutory designated sites within 5km of the site boundary are a sufficient distance away to ensure they will not be affected by any proposed works.
  - Some of the habitats on the site are Biodiversity Action Plan (BAP) priority habitats; rough grassland field margins, hedgerows and mature trees.
  - Two hedgerows are 'important' for ecological reasons in the Hedgerow Regulations (the north and west boundaries and they are both proposed Local Wildlife Sites), and a further three of the seven have moderately high to high nature conservation value.
  - All hedgerows qualify as a habitat of principal importance as they are more than 20m in length and have more than 80% cover of UK native species.
  - 13 mature trees could accommodate roosting bats
  - The older trees qualify as the local BAP habitat mature trees.
  - Evidence of water vole (a BAP priority species) along the stream in the southern half of the site.
  - There are habitats likely to support badgers, bats (roosting, commuting and foraging), great crested newts, reptiles and water voles. Further protected species surveys are recommended.
- 8.64. Following the recommendations of the Preliminary Ecological Appraisal, the applicant also undertook further detailed protected species surveys including a Breeding Bird Survey, Bat Activity Survey Report, Great Crested Newt and Reptile Study Report.

### Breeding Bird Survey Report

- 8.65. The report concludes that the site supports a reasonable diversity of breeding birds, including species of Birds for Conservation Concern. Some of these species are suffering severe national decline due to loss of habitat, and as such mitigation is required. The majority of breeding birds are on the site boundaries.
- 8.66. Species likely to be affected by the development are those that breed or feed on the arable ground, including Skylark, Yellow wagtail, Linnet and Yellowhammer. These species will be displaced. Enhancements to hedgerows and trees could have

positive impacts for many species. Mitigation is required during construction and measures to maintain and enhance the habitat on site once it is developed.

8.67. Bat Activity Survey Report

8.68. The survey recorded at least 5 bat species using the site. The level of activity and species diversity is at a moderate level, meaning the site is important for the local bat population. The report recommends that if any of the potential bat roosting trees are to be removed, further surveys will be required. The survey recommends that boundary features are retained as foraging and commuting habitat, and that new gardens, tree planting and SUDS should provide further foraging habitat. The proposed allotments will also provide insect prey for bats. Mitigation during construction is required, plus habitat enhancement once the site is developed.

8.69. Great Crested Newt and Reptile Survey Report

8.70. The report concludes that there is a low population of grass snake, and no other reptiles present. Great Crested Newts were identified outside of the site, in two ponds to the west and a pond to the south. Both are 'species of principal importance' in the NERC Act 2006. This equates to a medium population in the area, with probable movement between the ponds. The report recommends that reptiles (to the north and centre of the site) could be harmed during construction, and mitigation measures will be required. Also, due to the close proximity of Great Crested Newts (who can forage 500m from ponds), construction mitigation measures and ongoing habitat management are required.

8.71. The survey recommends that survey data should not be over 2 years old on phased schemes. Therefore, repeat surveys will be required for Reserved Matters applications, a condition is recommended to secure this.

8.72. In light of the conclusions of the above assessments, the applicant has completed a Construction Mitigation Strategy and an Ecological Creation and Habitat Management Plan. The Construction Mitigation Strategy sets out a mitigation strategy for habitats and species during construction. This document should be conditioned to ensure the mitigation measures are undertaken during construction and the scheme does not have a harmful impact upon the existing ecology of the site. The Ecological Creation and Habitat Management Plan outlines proposals for habitat creation and enhancement and provides details on the continued management (aftercare) of ecological resources on the site. The key ecological resources of the site are the 'important' hedgerows (under the criteria of the Hedgerow Regulations 1997), the retained trees, the existing watercourses, the newly created parkland, ponds and surface water balancing lagoons. This management plan should be conditioned to ensure it is adhered to, to ensure the biodiversity of the site is enhanced.

8.73. The applicant has undertaken a Stage 1 Arboricultural Report for the site. There are 86 individual trees and 32 groups of trees on the site. The most significant trees on site are mature Pedunculate Oak, Ash and Hawthorn.

8.74. The Report recommends that at Reserved Matters stage the Root Protection Areas and construction exclusion zones are finalised, and a Tree Protection Plan is produced in conjunction with an Arboricultural Implications Assessment and Method Statement. This can be secured by condition for each phase.

- 8.75. Leicestershire County Council (Ecology) has raised no objection to this application subject to a number of conditions including:
- Implementation of the water vole mitigation plan prior to construction
  - Built in accordance with of the ecological creation and habitat management plan and the construction mitigation strategy
  - Update assessments, and surveys, if necessary, for badger, great crested newts and water voles for each phase adjacent to a hedgerow or watercourse covering
  - Development in accordance with the illustrative layout
  - Landscape planning in informal and natural open space to be of locally native and common species only – can be secured through landscaping details so not necessary
  - Buffer zones of at least 5 metres of natural vegetation to be maintained alongside all retained hedgerows
  - SUDs to be designed to maximise benefit to wildlife
  - Light spill onto retained hedgerows and the brook corridor to be minimised to a value of 1lux or lower at the edge of the habitats
  - Provision of bat boxes on properties adjacent to wildlife corridors of hedgerow and watercourse
  - Removal of vegetation outside the bird nesting season
- 8.76. These conditions would ensure that mitigation measures are in place to protect the ecology of the site and provide biodiversity enhancements in several areas through the implementation of the Ecological Creation and Habitat Management Plan. Subject to the conditions and the mitigation measures identified the scheme would retain on site features and improve the biodiversity features on the site and is therefore in accordance with emerging Policy DM6 of the SADMP and paragraphs 109 and 118 of the NPPF.

#### Impact upon Heritage Assets

- 8.77. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to have the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
- 8.78. Local Plan policy BE5 states that the settings of listed buildings will be preserved and enhanced by appropriate control through the design of new development in the vicinity. Additionally Policies BE13, 14, 15 and 16 require the assessment of a sites archaeological interest or potential and field evaluations, preservation in situ and excavation and recording where necessary.
- 8.79. Emerging policy DM11 states the Council will protect, conserve and enhance the historic environment, via careful management of development which impacts upon designated or non-designated heritage assets. Emerging policy DM12 states that development affecting heritage assets and their settings will be expected to secure their continued protection or enhancement. Emerging policy DM13 states that a proposal should include a desk-based assessment and field evaluation to detail the significance of any affected asset.
- 8.80. Paragraphs 128 – 134 require the assessment of the significance of any heritage assets affected and an assessment and if a development will harm the significance of a designated heritage asset. Additionally paragraph 139 states that non-

designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments should be considered subject to the policies for designated heritage assets.

*Built heritage assets*

- 8.81. To the north east of the application site lies Wykin Hall Farmhouse, which is a Grade II listed building. Additionally to the west of the application site lies the Ashby Canal Conservation area.
- 8.82. A Heritage Statement has been submitted with the application addressing the impact of the development upon these heritage assets. This document concludes that the proposed development will not detract from the significance of the listed building and will have no direct impact upon the canal and therefore will cause less than substantial harm which are outweighed by the public benefits provided by the scheme.
- 8.83. The most significant elements of the setting of Wykin Hall Farmhouse is the north paddock and tree-lined avenue and the formal planted gardens to the south. Due to the expansion of Hinckley and the construction of the A47 this has resulted in the listed building lying on the urban fringe of Hinckley, therefore its wider setting has been compromised. Additionally to the south east of the house large agricultural buildings and a stockpile of logs, which has resided there for many years, detract from the setting of the listed building and reduce its 'open and visible' prominence in the countryside. A green buffer would remain between the application site and the listed building due to the retention of an agricultural field to the north and the provision of the playing field and allotments to the northern boundaries of the site. It is therefore considered that this proposal would have less than substantial harm to the setting of the listed building, subject to the visual encroachment on views looking south and south west from the house to the site is mitigated through sensitive planting and detailed design through the reserved matters application(s). This proposal is identified to have many public benefits which includes the significant provision towards housing for the area, provision of 20% affordable housing, associated infrastructure to provide for the development and contributions to mitigate the impacts of the development.
- 8.84. The quality of views looking towards Hinckley from the sections of the Ashby Canal closest to the scheme is varied and includes views of existing development, so this further proposed development is likely to have a limited visual impact and thus cause less than substantial harm to the setting of the Ashby Canal Conservation Area. The scheme may actually provide the chance to enhance to views into Hinckley from the Canal by providing sensitive planting and detailed design. It is therefore considered that this proposal would have less than substantial harm to the setting of the conservation area and the benefits of the proposal through the provision of housing, affordable housing, retail facility, school, play and open space including community playing fields and the potential to improve views into Hinckley and potentially enhance the setting would outweigh the harm.

*Archaeological heritage assets*

- 8.85. A desk-based assessment, geophysical and field-walking surveys as well as the trial trenching has been undertaken for the site. These have provided a satisfactory assessment of the archaeological interest and indicated an need for targeted archaeological mitigation of a series of areas within the proposed outline and full development sites. The assessment of the site has demonstrated the presence of a

Roman period occupation site and associated enclosure complex, apparently associated with an approximately east-west aligned trackway, an area of gullies and pits including the recovery of a Neolithic flint end-scraper and an third area of gullies and associated features, at present lacking close dating to the north west of the site.

- 8.86. Due to these findings it is recommended that prior to the commencement of development upon the identified heritage assets the applicant must make arrangements for and implement an appropriate programme of archaeological investigation, comprising targeted area excavation of the affected archaeological remains. The areas requiring further investigation are within Phases 1, 2, 3, 7 and 8. Due to the size of the site a phased condition is considered necessary to secure this investigation is undertaken.

#### Impact upon Flood Risk

- 8.87. Local Plan policy NE13 states that planning permission will not be granted for development proposals which would inhibit or damage the drainage functions of the natural watercourse system, unless adequate on or off site protection, alleviation or mitigation works are undertaken. Policy NE14 states that permission will not be granted for proposals which will adversely affect water quality and ecology of water courses and groundwater resources unless satisfactory arrangements are made for disposal of foul sewage, trade effluent and surface water. Policy NE15 states that permission will not be granted for development which would have an adverse effect on the land drainage function of a watercourse corridor, or result in the loss of recreational amenity and nature conservation value of the corridor.
- 8.88. Emerging Policy DM7 of the SADMP requires adverse impacts from flooding to be prevented and that the development would not create or exacerbate flooding by being location away from areas of flood risk unless adequately mitigated against in line with National Policy.
- 8.89. Paragraph 100 of the NPPF states that development should be directed away from areas at highest risk of flooding, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 8.90. The applicant has submitted a Flood Risk Assessment (FRA). The majority of the site is located in flood zone 1 (low less than 1 in 1,000 annual probability of flooding). An area of flood zone 2 (medium 1 in 100 to 1 in 1,000 annual probability of flooding) is located to the south of the site. The PPG states that all the uses proposed on site are suitable in these flood zones. In accordance with the sequential approach, built development is proposed in Flood Zone 1 only.
- 8.91. The nearest watercourses are the Ashby Canal 200m to the west and 300m to the south and Battling Brook 400m to the south. A ditch course enters the site through a culvert at the north-eastern corner of the site and flows through the site north to south and enters a culvert to the south of the site, which flows beneath the Triumph factory site and enters the Battling Brook. Smaller field drains join the ditch course as it flows through the site. The ditch course channel ranges from 3m to 6m in width and 0.8m to 1.5m in depth.
- 8.92. The FRA shows the site is not affected by tidal, reservoir, canal or groundwater flooding. An assessment of the flood risk from the ditch course was included in the FRA. The results confirm the extent of flood zone 2 and so the built development has been located in zone 1. The FRA recommends that blockages of the culvert

would increase flooding and so a maintenance regime and replacement of the security screen should be included in the Flood Risk Mitigation Strategy. This can be secured by condition and is recommended by the Environment Agency. The same low lying area of land to the south of the site is also most susceptible to surface water flooding. This area of land is mostly proposed as open space.

- 8.93. The FRA includes a Flood Mitigation Strategy and a proposed surface water management strategy. These identify that for flood mitigation measures and sustainable drainage methods can be incorporated into the scheme. These are suggested strategies and are not final. A conditioning requiring details of surface water drainage schemes based on sustainable drainage principles for each phase is submitted prior to the commencement of each phase is required. This approach is also suggested by the Environment Agency.
- 8.94. No objections have been received from LCC Drainage, the lead local flood authority). The Environment Agency are content with the results of the FRA and subject to a condition requiring the development to be carried out in accordance with the FRA and other conditions discussed above have no objections. The scheme will not create or exacerbate any flooding issues for the site or the wider area and subject to conditions is in accordance with Policy NE13 of the Local Plan (2001), emerging Policy DM17 of the SADMP and paragraph 100 of the NPPF.

#### Land Contamination and Pollution

- 8.95. Local plan policy BE1 (h) states that planning permission will be granted where the development is not adversely affected by activities in the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development.
- 8.96. Emerging policy DM7 states that adverse impacts from pollution will be prevented, including water quality, light, noise and vibration, contamination and air quality.
- 8.97. NPPF paragraph 123 states that planning decision should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development. The Government's Noise Policy Statement 2010 states that all reasonable steps should be taken to mitigate and minimize adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development. The NPPG states that care should be taken to ensure that mitigation measures do not make for an unsatisfactory development, in terms of its design.

#### *Land contamination*

- 8.98. The site is located within close proximity to a foot and mouth burial site and a former landfill site known as Wykin Park. Therefore a land contamination assessment is required for the site. It is therefore recommended that appropriate land contamination conditions are included to ensure adequate investigation is undertaken and appropriate mitigation measures are in place.
- 8.99. A gas assessment has been submitted by the applicant, however this does not include all details required to undertake a full assessment of the land contamination. Therefore, a condition requiring the submission of a scheme for the monitoring of landfill gas on site and any mitigation required prior to the commencement of development is necessary.

### *Pollution*

- 8.100. Due to the application site being adjacent to the A47 an air quality assessment and noise assessment is required to ensure the standards are acceptable for future residents.
- 8.101. An air quality assessment not been submitted and therefore a condition requiring this and any required mitigation is recommended.
- 8.102. An initial noise investigation has been undertaken for the application which indicated that proposed noise standards will be exceeded across the majority of the site with significant exceedance adjacent to Normandy way in external amenity areas of residential premises. It is indicated that proposed noise standards will be exceeded across the majority of the site with windows open. Ventilation e.g. mechanical ventilation will therefore be required so standards can be achieved with windows closed. Environmental Health have recommended the following:
- The developer should ensure continued input from their noise consultant during detailed design to consider orientation/bunding/barriers so that maximum protection from noise can be achieved.
  - internal road layout indicated in figure 13 of the Design and Access Statement submitted with this application shows a potential road layout. Serious consideration should be given to putting roads along the Normandy Way boundary to provide a buffer between it and residential premises.
  - A full noise assessment will be required once final layout has been concluded. Covering potential impact from any plant serving the convenience retail, road noise from Normandy Way, impact from the employment land to the south.
- 8.103. A condition requiring the submission of a noise assessment for each phase protecting the proposed school and dwellings is recommended and is necessary to protect the amenity of future residents.
- 8.104. To ensure the development does not result in unacceptable light pollution several conditions are recommended by Environmental Health to require the developer to submit details of lighting other than street lighting for approval and limit the illumination of any illuminated signs within the development. These conditions are considered to be reasonable and necessary to avoid light pollution to the wide area.

### Play and Open Space Provision

- 8.105. Core Strategy policy 1 states that new development should address the existing deficiencies in the quality, quantity and accessibility of green space and play provision. New green space should meet the standards in policy 19. Policy 19 sets out the standards to be used to determine what improvements are required to existing facilities, and what new provision is required for new development. Additionally emerging Policy SA2 of the SADMP requires the allocation to meet the provisions within Policy 19.
- 8.106. Policies REC2 and REC3 of the Local Plan (2001) refer to the provision of open space for new development. However due to the advanced stage of the SADMP and the specific reference to Policy 19 within the allocation Policy SA2 these policies carry limited weight.

- 8.107. Using the standards outlined in Core Strategy Policy 19 the following quantity of open space is required (this is calculated using average dwelling size of 2.4 people per dwelling resulting in the population of the scheme being 2,040 people):
- Equipped children's play space – 0.31 ha
  - Casual/informal play space – 1.43 ha
  - Outdoor sports provision – 3.27 ha
  - Accessible natural green space – 4.08 ha
- 8.108. The planning statement and design and access statement outlines that the following will be provided on site:
- Central Park – c.2.11ha
  - Sports Pitches - up to 3.28ha
  - Allotments – c.0.5ha
  - Children' play areas – 0.31ha
  - Natural and semi-natural green space – maximum of 9.13ha
  - Drainage ponds and other SUDs features – c.2.15ha
- 8.109. The scheme can therefore demonstrate that the open space standards outlined in Policy 19 of the Core Strategy can be delivered on site. Due to the landscape led approach and drainages/SUDs features required there is a significant over provision of natural and semi-natural green space which will enhance the design of the scheme and also provide a strong 'green' character to the development.
- 8.110. The applicant will be required to provide appropriate changing facilities on site to support the proposed playing fields. This would need to meet the appropriate quality standards. This is in accordance with the provisions of the Play and Open Space SPD.
- 8.111. The application is at the outline stage and full details of green space and play provision will be provided through the reserved matters stages. However the applicant has demonstrated that the application can provide the provisions outlined in Policy 19 of the Core Strategy and is therefore acceptable.

#### Sustainable Design and Technology

- 8.112. Policy 24 of the Core Strategy requires all developments to meet the code for sustainable homes standard. However, this standard has now been removed. This policy seeks to reduce climate change through sustainable design and the council seeks to achieve the most sustainable development possible, taking into account energy efficiency, design and orientation, and other measures which contribute towards sustainable development.
- 8.113. Paragraph 96 of the NPPF states that new developments should comply with adopted local plan policies on local requirements for decentralised energy supply and take account of landform, layout, building orientation, massing and landscaping to minimised energy consumption.
- 8.114. The Design and Access Statement includes a sustainability statement which identifies the sustainable principles of the development. These are:
- Mixed use development will create a sustainable community and will reduce the need to travel by motorcar and



- Pedestrian and cycle routes are an integral part of the proposal and further enhancements will provide good connections with Hinckley
  - Public transport links will provide connections to Hinckley town centres and the railway station
  - Existing landscape features are to be retained on site and new habitats will be created on site
  - Sustainable urban drainage will be implemented on site
  - Sustainable construction methods and energy efficiency measures will be incorporated
- 8.115. Details of the sustainable construction are not provided at this stage, however the following issues will be explored:
- Plot orientation
  - Building adaptability for different occupiers
  - Provision of appropriate private space, car parking/cycle spaces
  - Use of environmentally friendly and more sustainable materials
  - Buildings that are resource and energy efficient potentially with efficient heating systems, low flow showers/smaller baths/dual low flush toilet, low carbon lighting with energy controls and management and double and triple glazing with improved insulation.
- 8.116. The applicant, Bloor Homes adopt a fabric first approach in their house types. This reduces each dwellings inherent energy demand by reducing the U values of mass or thermal elements to exceed minimum standards and designing their dwellings to reduce the effects of thermal bridging and address building air tightness. They also install water saving appliances to aid water efficiency, highly efficient gas condensing boilers to reduce fuel costs, and gas savers and waste water heat recovery systems to reduce carbon emissions.
- 8.117. It is considered that there are a number of sustainable design methods which could be facilitated through this development. These methods will be identified through subsequent reserved matters stages.
- 8.118. The development will be able to incorporate sustainable design methods to reduce the impact of the development upon the climate and is therefore in accordance with Policy 24 of the Core Strategy and paragraph 96 of the NPPF.

#### Affordable Housing

- 8.119. Policy 15 of the Core Strategy seeks to secure 20% on site affordable housing in urban areas (including Hinckley) with a mix of 75% social rented and 25% intermediate housing. At full council 19 June 2012 the principle of accepting affordable rent rather than social rent was accepted.
- 8.120. The proposal is to include 20% affordable housing with a mix of 75% affordable rented units and/or social rented units and 25% intermediate unites. This mix would be secured by a Section 106 agreement.
- 8.121. The scheme is therefore in accordance with Policy 15 of the Core Strategy.

#### Developer Contributions (Section 106 obligations)

- 8.122. Policy IMP1 of the Local Plan (2001) states that contributions towards the provision of necessary on-site and off site infrastructure and facilities to serve the

development will be required and the granting of planning permission will be subject to the agreement of planning obligations.

- 8.123. Emerging Policy DM3 identifies that where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism.
- 8.124. Regulation 122 of the CIL Regulations 2010 provides that a planning obligation (ie in essence a developer contribution) may only constitute a reason for granting planning permission for the development if the obligation is;
- a) Necessary to make the development acceptable in planning terms, and
  - b) Directly related to the development, and
  - c) Fairly and reasonably related in scale and kind to the development

#### *Highways*

- 8.125. An assessment of the scheme upon the highway network is identified above. Several mitigation measures are proposed to alleviate the impact of this development on the highway network.
- 8.126. The following contributions are required (details of what the works consist of are provided within the Highways section above):
- Off-site junction improvements – Ashby Road/Normandy Way - £318,039  
- Widening of A47 Dodwells Road approach to the roundabout - £233,415
  - Improvements to existing cycling and walking infrastructure - £116,810
  - Public Right of Way improvements - £13,355
  - Speed limit changes (Traffic Regulation Order) - £5000
  - Travel Packs, 2 x 6 month bus passes per dwelling
  - New/diverted bus services serving the site on an half hourly basis 7am – 7pm Monday to Saturday
  - Travel Plan Monitoring Fee
  - Appointment of Travel Plan Co-ordinator
- 8.127. These mitigation measures have been determined through undertaking a modelling exercise and Transport Assessment and are considered to be reasonable and necessary to ensure the development is acceptable.

#### Education

- 8.128. An assessment of the developments impact upon the local education provisions have been provided by Leicestershire County Council. These have been broken down into Primary, Secondary and Special School Requirements.
- 8.129. With regards to Primary School requirements the site falls within the catchment area of Battling Brook Community Primary School and is within a two mile walking distance of 5 other primary schools. The overall current deficit for all these schools is 311 pupil places. It should be noted that a total of 45 places have been discounted as there is Section 106 funding already in place for these from other developments. It is anticipated that this development would create a deficit of 204

pupil places. Due to the current deficit these places cannot be accommodated in any nearby schools and therefore a new 2010 place primary school is requested. To provide this school the developers must provide 2ha of land for the school site (1ha for the school and an additional 1ha to allow for an extension to the school if necessary). The applicant has identified this area of land on the plans. Additionally a contribution of £4,035,000 is required to cover the estimated cost of the school. To calculate this figure LCC (education) has used recent examples from their own primary school builds to establish an average build cost of £3,000 per square metre. A 210 place primary school would need to be 1,345 square metres in size and therefore the figure of £4,035,000 is a reasonable estimate for the build cost of the school.

- 8.130. With regards to the Secondary School requirements, the site falls within the catchment area of Redmoor Academy, Hastings High and The Hinckley Adacamy. The Schools have a joint net capacity of 3250. Overall, the have a current deficit of 6 places. A total of 51 pupil places are included in this forecast for these schools from S106 agreements for other developments in the area and have to be discounted. This reduces the deficit and creates a surplus of 45 pupil places. The proposed development would yield 170 pupils and would result in a deficit of 125 pupil places. The 170 pupil places generated by this development can therefore be partly accommodated at nearby schools and a claim for an education contribution of 125 pupil places in the 11-18 sector is justified. In order to provide the additional 11-18 school places anticipated by the proposed development, the County Council requests a contribution for the 11-18 school sector of £2,264,765.63. This figure is based upon standard LCC Education calculations. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Redmoor High School or other schools with the locality which will serve this development.
- 8.131. With regards to the Special School requirements the number of pupils on roll in Leicestershire Special schools has risen from 482 in 2002 to 1019 in 2015. The special school population will continue to grow as a result of the increasing birth rate and the growth in new housing. Currently 0.65% of the primary age population and 1.59% of the secondary age population are educated in Special Schools. All Special Schools in Leicestershire are full, and have a deficit of available spaces, and are forecast to remain so. In some instances the special schools are having to use their own teaching staff to teach pupils in available space in mainstream schools. Pupils are therefore missing out on the facilities, equipment and environment a Special School establishment is able to provide. The Council therefore seeks developer contributions towards the cost of expanding Special school provision for developments of 250 dwellings or more. The threshold of 250 dwellings was chosen to reflect the low special pupil yield and the avoidance of claiming very small amounts on all developments. This is calculated using the standard calculation models used by LCC Education.
- 8.132. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement.

#### Health

- 8.133. Assessment of the impact of the development upon the health service in the area has been assessed by the NHS. It is identified that the development could have an estimated population of 2057 residents (using the Census average household size of 2.4 people per dwelling). This would result in the need 54.09 additional patient

appointment hours per week for a consulting room and 14.42 hours additional patient appointment hours per week for a treatment room. The closest GP Practice is located at Hollycroft Medical Centre. This centre has experience continual growth of patient numbers which is currently impacting upon the capacity within the existing premises. To provide a comprehensive medical service to the proposed residents of this scheme an extension to Hollycroft Medical Centre would be needed to provide a larger waiting room, more clinical space, a larger reception, administration and record storage space and more car parking. An assessment of the building has been undertaken and plans have been drawn up which shows that the building can be extended by approximately 352 square metres. The cost for providing this has been calculated on a per square metre basis by quantity surveyors which are experienced in health care projects. The additional floorspace required is calculated to be 247 square metres. The cost of the extension would be £1902 per square metre and therefore the requested contribution is £469,489.68.

- 8.134. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement.

#### Police

- 8.135. An assessment upon the impact of the development upon the Police has been undertaken by Leicestershire Police. It is assessed that the development would generate the need to employ 5.3 additional members of staff and to support this the following contributions are requested:

- Start up equipment - £35,159
- Vehicles - £18,598
- Additional radio call capacity - £1,785
- Policy database capacity - £935
- Additional call handling - £2,048
- ANPR (number plate recognition) CCTV cameras - £8,444
- Mobile CCTV - £1500
- Additional premises - £207,315 (based on 14sqm per member of staff at a build cost of £2794 per square metre)
- Hub equipment - £1700

- 8.136. Therefore a total figure of £277,484 is requested for the Police to mitigate the impacts of the new development.

- 8.137. The development would have an impact upon the Police infrastructure and therefore the above contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement.

#### Green Space and Play Provision

- 8.138. The required green space and play provision will be provided on site in accordance with Policy 19 of the Core Strategy. If these green spaces and play provisions are adopted by the council at a later date a maintenance sum covering the costs for a 20 year period for equipped play space and informal play space and a 10 year period for formal open space will be required. This is in accordance with the Play and Open Space SPD. The contributions will be outlined on a per square metre basis, due to exact details of the play and open space provision on site not yet being known. The contributions for play and open space will be as follows:

- Formal (Sports Pitches and Parks) - £6.60 per square metre
  - Equipped (Play Areas) - £141.40 per square metre
  - Informal (Semi Natural Green Space including Sustainable Urban Drainage Systems) - £10.60 per square metre
- 8.139. These contributions would be to ensure the maintenance of the green space and play provision on site and are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement.

#### Library

- 8.140. The impact of the development upon libraries has been assessed by Leicestershire County Council.
- 8.141. The proposed development is within 2.2 km of Hinckley Library on Lancaster Rd being the nearest local library facility which would serve the development site. The library has an active borrower base of 9289 people. However post code analysis demonstrates that Hinckley Library attracts usage from a much wider catchment of 46374 people through additional borrowers who live outside the settlement area but come into Hinckley for work, shopping or leisure reasons. It is considered that the development would generate an additional 1224 plus users, which would require an additional 2950 items of lending stock plus reference, audio visual and homework support material to mitigate the impacts of the proposed development on the local library service. The contribution requested is £25,650 based upon:
- 1 bedroom - £15.09 per dwelling
  - 2+ bedroom - £30.18 per dwelling

- 8.142. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement.

#### Civic Amenity

- 8.143. The impact of the development upon the Civic Amenity infrastructure has been assessed by Leicestershire County Council.
- 8.144. The nearest Civic Amenity Site to the proposed development is located at Barwell and residents of the proposed development are likely to use this site. Each household in Leicestershire in 2012/13 delivered on average approximately 0.276 tonnes of municipal waste to a Civic Amenity Site. On this basis the proposed development of 850 dwellings would generate over 234 tonnes of additional Civic Amenity waste at the Barwell Civic Amenity Site. The proposed development would place additional demand on the Barwell Civic Amenity Site and the request for the Civic Amenity developer contribution would meet the demands placed on the site as a result of the proposed development. Civic Amenity Site at Barwell accepted approximately 7,874 tonnes per annum. Government legislation is focused on maximising the diversion of waste from landfill and the County Council must have appropriate containers and/or storage areas to deal with the different types of waste. Due to the complex nature of the waste received at the Civic Amenity Site it will become increasingly difficult over time to maintain performance and a good

level of service at peak times, particular with an increased demand placed on it due to this development.

- 8.145. A contribution of £42,101 is requested which has been calculated based on 850 units multiplied by the current rate for the Barwell Civic Amenity Site of £49.53 (subject to Indexation and reviewed on at least an annual basis) per dwelling/unit = £42,101. (rounded up to the nearest pound).
- 8.146. The developer contribution would be used at the Barwell Civic Amenity Site. This is expected to increase the capacity of the Civic Amenity Site at Barwell by providing space for additional waste containers.
- 8.147. It is considered fair and reasonable in scale and kind to the proposed scale of development and is in accordance with the thresholds identified in the adopted policies and to meet the

#### Town Centre Improvements

- 8.148. Town centre improvements will be required in accordance with Policy 1 and 5 of the Core Strategy. These contributions are currently being negotiated.

### **9. Conclusion**

- 9.1. This is an allocated site in the emerging SADMP. The site is in accordance with the provisions of the allocation. Whilst this application does not include the entire allocation it is considered that this would not restrict the delivery of the remainder of the site and is therefore acceptable. It is considered with mitigation that the proposal would not have a detrimental impact upon the highway network, existing heritage assets, ecology, neighbouring residential amenity, flood risk, land contamination and pollution. The proposal is in accordance with Local Plan Policies and is therefore recommended for approval.

### **10. Recommendation**

- 10.1. **Grant planning permission** subject to:

- The prior completion of a S106 agreement to secure the following obligations:
  - Highways and Public Rights of Way Improvements - £686,619 plus travel packs, bus passes, new bus service, and a travel plan co-ordinator
  - Education - Primary £4,035,000 (or build school) and 2ha of land
    - Secondary £2,264,765.63
    - Special (SEN) - £298,454.09
  - Health - £469,489.68
  - Civic Amenity - £42,101
  - Libraries – £25,650
  - Police - £277,484
  - Play and Open Space – on site provision with maintenance contribution based on a square metre figure
  - Town Centre Improvements – figure to be agreed
  - Affordable Housing – 20% on site and local connections -
- Planning conditions outlined at the end of this report.

10.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

10.3. That the Chief Planning and Development Officer be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

10.4. **Conditions and Reasons**

1 Application for the approval of reserved matters shall be made within ten 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 & Country Planning Act 1990 (as amended).

2. Approval of the following details (hereinafter called "reserved matters") shall be obtained from the local planning authority in writing before any development is commenced:

a) The layout of the site including the way in which buildings, routes, parking, turning and open spaces are provided and the relationship of these buildings and spaces outside the development

b) The scale of each building proposed in relation to its surroundings

c) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.

d) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details.

**Reason:** This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

3. The development hereby permitted shall be carried out broadly in accordance with the Development Framework (Drawing Number DE155\_002 Rev C), dated 7 March 2016, subject to the details to be submitted to, and approved in writing by, the Local Planning Authority in condition 2 above.

**Reason:** To ensure a high quality scheme is developed in accordance with the design principles of the development.

4. Unless otherwise agreed in writing by the Local Planning Authority the development shall be carried out in accordance with the plans and documents detailed below:

Planning Application Boundary Dwg No. DE\_155\_001 Rev B received 2 March 2015

Design and Access Statement received 7 March 2016  
Public Open Space and Phasing Plan received 26 February 2016  
S278 Scope of Highway Works and Phasing Dwg No. 800  
S278 Highway Works Phase 2 Sheet 1 Dwg No. 801 received 27 April 2016  
S278 Highway Works Phase 2 Sheet 2 Dwg No. 802 received 27 April 2016  
S278 Highway Works Phase 1 Sheet 3 Dwg No. 803 received 27 April 2016  
S278 Highway Works Phase 2 Sheet 4 Dwg No. 804 received 27 April 2016  
Ecological creation and habitat management plan received 2 March 2015  
Construction mitigation strategy received 2 March 2015

**Reason:** For the avoidance of doubt and in the interests of proper planning.

5. The Reserved Matters submissions for each phase shall be accompanied by a detailed Development Brief, to demonstrate compliance with the approved Design and Access Statement, for that phase. No development shall commence, on that phase, unless and until those details have been approved in writing by the Local Planning Authority. Development shall be carried out in complete accordance with the approved details.

**Reason:** In the interests of visual amenity and to ensure a high quality development in accordance with Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

6. No development shall take place within each phase of development, until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out the overall strategies for:
  - a) The means of access and routing for demolition/ ground work and construction traffic
  - b) The parking of vehicles of site operatives and visitors
  - c) Loading and unloading of plant and materials
  - d) Storage of plant and materials used in constructing the development
  - e) Location of Contractor compound(s)
  - f) Wheel washing facilities
  - g) Management of surface water run-off including details of any temporary localised flooding management system and a scheme to treat and remove suspended solids from surface water run-off during construction
  - h) Temporary highway works
  - i) Prevention of impact to existing and proposed residents from dust, odour, noise, smoke, light and land contamination during construction
  - j) Details of how the above will be monitored and a procedure for the investigation of complaints.

The approved CEMP shall be adhered to throughout the construction period for that phase of development to which it relates.

**Reason:** To ensure appropriate mitigation for the impacts caused by the construction phases of the development and to reflect the scale and nature of development in accordance with Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.



7. In accordance with the Phasing Plan, prior to the occupation of each phase a Residential Travel Plan, in accordance with the Framework Travel Plan, shall be submitted to and agreed in writing by the LPA. The measures approved shall thereafter be provided.

**Reason:** To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

8. Prior to the opening of the school, a School Travel Plan in accordance with the Framework Travel Plan, shall be submitted to and agreed in writing by the LPA. The measures approved shall thereafter be provided.

**Reason:** To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

9. The site roundabout access and works to the A47 shall be provided in general accordance with the details shown on drawings 14470/010 and 14470/011, and shall be completed and available for use as public highway prior to occupation of the first dwelling.

**Reason:** To ensure an acceptable layout in the interests of highway safety in accordance with Policy T5 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

10. The off-site highway works on the A47 at the junctions of Outlands Drive and Roston Road shall be provided in general accordance with the details shown on drawing 14470/012 and shall be completed and made available for use as public highway prior to the occupation of the 250th dwelling.

**Reason:** To mitigate the impact of traffic associated with the development proposal and in the interests of highway safety in accordance with Policy T5 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

11. Signage and road markings to the satisfaction of the Local Planning Authority shall be provided for the reduced speed limit between Wykin Road and Stoke Road prior to occupation of the first dwelling.

**Reason:** To ensure an acceptable layout in the interests of highway safety in accordance with Policy T5 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

12. No development shall commence, in any phase, unless and until details of all proposed walls, fences, railings and gates for that phase have been submitted to and approved in writing by the Local Planning Authority. The

development shall then be implemented in accordance with the approved details and no building shall first be occupied until the boundary treatments associated with that building have been installed, unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure a high quality of design in accordance with Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

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

**Reason:** To ensure a high quality of design in accordance with Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

14. No development shall commence, in any phase, unless and until such time as representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings/buildings for that phase have been deposited with and approved in writing by the local planning authority. The development shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy BE1 of the Local Plan and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document.

15. No development shall commence on site until the implementation of the Water Vole mitigation has been implemented outlined in the Water Vole Habitat Strategy Plan Dwg No. DE155\_006.

**Reason:** To ensure the identified mitigation measures are implemented and the development does not have a detrimental impact upon a protected species in accordance with DM6 of the emerging Site Allocations and Development Management Policies and Paragraph 109 of the NPPF.

16. A Buffer zones of at least 5 metres of natural vegetation shall be maintained alongside all retained hedgerows on site. No buildings shall be erected in these areas.

**Reason:** To ensure the identified mitigation measures are implemented and the development does not have a detrimental impact upon a protected species in accordance with DM6 of the emerging Site Allocations and Development Management Policies and Paragraph 109 of the NPPF.

17. Any light spill onto retained hedgerows and the brook corridor shall be minimised to a value of 1lux or lower at the edge of the habitats, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To protect the ecological and biodiversity interests of the site in accordance with DM6 of the emerging Site Allocations and Development Management Policies and Paragraph 109 of the NPPF.

18. No development shall commence, in any phase, unless and until such time as a scheme identifying the provision of bat boxes on properties adjacent to wildlife corridors of hedgerow and watercourse for that phase is submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

**Reason:** In the interests of biodiversity and mitigation measures across the site in accordance with DM6 of the emerging Site Allocations and Development Management Policies and Paragraph 109 of the NPPF.

19. No vegetation shall be removed on site during the bird nesting season (1st March - 31st July inclusive).

**Reason:** To ensure the development does not have a detrimental impact upon nesting birds in accordance with DM6 of the emerging Site Allocations and Development Management Policies and Paragraph 109 of the NPPF.

20. No development shall commence, in any phase which is adjacent to a hedgerow or watercourse, unless and until such time as re-surveys or reassessments for badger, great crested newts and water voles are submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved survey/assessments and any identified mitigation measures.

**Reason:** To ensure the impact upon protected species on site are identified and mitigated accordingly in accordance with DM6 of the emerging Site Allocations and Development Management Policies and Paragraph 109 of the NPPF.

21. No development shall commence, on Phases 1, 2, 3, 7 and 8, until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority for that phase. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording, including provision for community engagement (excavation, site visit/access)
- The programme for post-investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and records of the site investigation, including local community presentation
- Provision to be made for archive deposition of the analysis and records of the site investigation

- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

**Reason:** To ensure satisfactory archaeological investigation and recording in accordance with Policies BE13, 14, 15 and 16 of the Local Plan (2001) and emerging Policy DM11 of the Site Allocations and Development Management Policies Development Plan Document.

23. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 22 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reason:** To ensure satisfactory archaeological investigation and recording in accordance with Policies BE13, 14, 15 and 16 of the Local Plan (2001) and emerging Policy DM11 of the Site Allocations and Development Management Policies Development Plan Document.

24. The development of each phase permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated February 2015, ref: 30667/4001 and the following mitigation measures detailed within the FRA:

1. No development within the 100 year (Flood Zone 3) floodplain outline established by the FRA. Sequentially set out development within the 100 year (Flood Zone 2) floodplain established by the FRA - Sections 4.2.10, 5.1.1 and 5.2.1, Figure 4.2 and Appendix D.
2. Minimum 6m corridor from top of bank (clear of structures) along the existing on site retained main watercourses - Sections 5.1.1 and 5.3.3, and Appendix E.
3. Finished floor levels are set no lower than 600mm above the 100 year plus 20% (for climate change) flood level applicable to each Phase of the development, to Ordnance Datum (AOD) - Section 5.1.1.
4. Watercourse crossings are designed as clear spanning structures/or an equivalent (where provided by culvert) in accordance with CIRIA C689, and in consultation with Leicestershire County Council as the Lead Local Flood Authority.

The mitigation measure/s shall be fully implemented prior to occupation of each development phase and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason:** To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies 13, 14 and 15 of the Local Plan and emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

25. No development shall take place on Phases 5 and 6 until an assessment of the risk of blockage of the 700mm culvert (located on the southern boundary) due to the existing screen/fencing to the culvert has been submitted to and approved in writing by the local planning authority. Any mitigation measures identified by the assessment shall subsequently be submitted to and approved in writing by the local planning authority before being implemented in accordance with the approved details and prior to any phase of the development affected by such a blockage has been occupied.

**Reason:** To prevent the increased risk of flooding, both on and off site in accordance with Policies 13, 14 and 15 of the Local Plan and emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

26. No development of each Phase shall take place until the detailed design of a surface water drainage scheme and a foul drainage scheme for that Phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme information should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** To prevent the increased risk of flooding, both on and off site in accordance with Policies 13, 14 and 15 of the Local Plan and emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

27. No development shall commence, in any phase, unless and until such time as a scheme that makes provision for waste and recycling storage and collection for that phase has been submitted to and approved in writing to the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary.

**Reason:** To ensure adequate storage facilities for the development in the interests of visual amenity and good design, in accordance with Policy BE1 of the Local Plan and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

28. No waste materials shall be burnt on the site at any time during any construction phase.

**Reason:** In the interests of residential amenity and highway safety in accordance with Policy BE1 and T5 of the Local Plan and emerging Policy DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document.

29. Construction shall be limited to the following hours;

Monday - Friday 08:00 - 18:00  
Saturday 09:00 - 13:00

No working on Sundays and Bank Holidays

**Reason:** In the interests of neighbouring residential amenity in accordance with Policy BE1 of the Local Plan and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

30. No development shall commence, in any phase, unless and until such time as a scheme for the investigation of any potential land contamination on that phase has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To protect future users of the land from land contamination in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

31. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To protect future users of the land from land contamination in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

32. No development shall commence, in any phase, unless and until such time as a scheme for the monitoring of landfill gas for that phase has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any landfill gas shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To protect future users of the land from contamination in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

33. Submission of air quality assessment

**Reason:** To ensure appropriate mitigation measures are in place to protect future residents from air pollution in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

35. No development shall commence, in any phase, unless and until such time as a scheme for protecting the proposed dwellings and/or school and for that phase from noise associated with road traffic and the proposed convenience retail has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

**Reason:** To ensure appropriate mitigation measures are in place to protect future residents from noise pollution in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

36. No development shall commence, in any phase, unless and until such time as details of any external lighting of the development other than street lighting for that phase is submitted to, and approved in writing by, the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

**Reason:** To ensure appropriate mitigation measures are in place to protect existing and future residents from light pollution in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

37. The intensity of the illumination of any illuminated sign forming part of the development shall be within that recommended by the Institution of Lighting Engineers in their Technical Report Number 5 (3rd Edition) for a sign within zone E2.

**Reason:** To ensure appropriate mitigation measures are in place to protect existing and future residents from light pollution in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

39. Upon completion of the development, a statement of a suitably qualified contractor shall be submitted stating that any lighting installation to which the above condition applies is fully compliant with the Institution of Lighting Engineers Technical Report Number 5 (3rd Edition) for a sign within zone E2.

**Reason:** To ensure appropriate mitigation measures are in place to protect existing and future residents from light pollution in accordance with emerging Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

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Planning Committee 21 June 2016  
 Report of the Chief Planning and Development Officer

Planning Ref: 14/01279/OUT  
 Applicant: JGP Properties Ltd  
 Ward: Earl Shilton

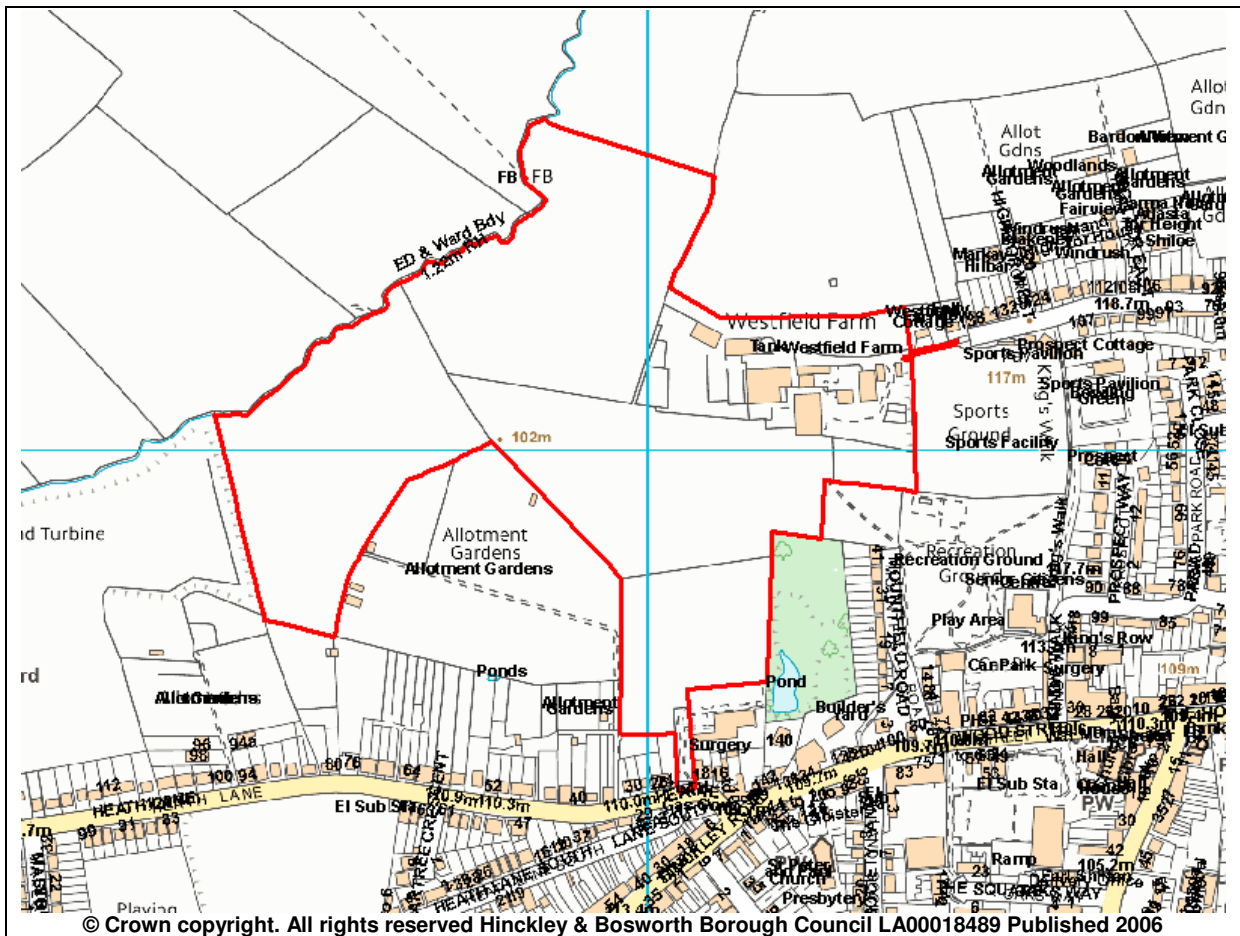


Hinckley & Bosworth  
 Borough Council

*A Borough to be proud of*

Site: Westfield Farm Keats Lane Earl Shilton

Proposal: Residential development of up to 350 dwellings, 0.6 ha of employment starter units, expansion of existing community facilities, access, open space and indicative landscaping (outline - access only)



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
  - Education – Primary £1,016,316.84  
 – Secondary £1,268,268.75  
 – Special £115,519.29
  - Play and open space - £599,645.30
  - Public realm improvements - £240,625.00
  - Health - £50,944.00 and land
  - Police - £112,697.00

- Library - £13,996.50
  - Civic amenity - £17,336.00
  - Highways (sustainable transport) – £305,029.00
  - Highways (strategic improvements) - (to be agreed under delegated powers)
- Planning conditions outlined at the end of this report.
- 1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions based on those conditions agreed by the committee.
- 1.3. That the Chief Planning and Development Officer be given delegated powers to determine the final terms of the S106 agreement including trigger points and claw back periods based on the terms agreed by the committee.

## **2. Planning Application Description**

- 2.1. This application seeks outline planning permission comprising residential development of up to 350 dwellings, 0.6 ha of employment starter units, expansion of existing community facilities, access, open space and indicative landscaping. All matters are reserved except for access which is a consideration.
- 2.2. Vehicular access to the site would be gained via Heath Lane and would comprise reconfiguring the existing access serving Heath Lane Medical Centre.

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

- 3.1. The application site is located to the north west of the District centre of Earl Shilton and north of Heath Lane and is outside the settlement boundary. The southern side of the site would adjoin garden allotments which are located to the north of dwellings fronting Heath Lane; one section of the site projects south and adjoins land adjacent to dwellings fronting Heath Lane and Heath Lane Medical Centre. The eastern boundary of the site would adjoin a former quarry, which has been left undeveloped to create a wildlife area, Wood Street park, Earl Shilton Cricket Club and Keats Lane. Beyond northern boundary is agricultural land and adjoining the western boundary is open space associated with William Bradford Community College.
- 3.2. There is a public footpath running through the site from Wood Street Park to the northern point of the site where it crosses Thurlaston Brook which adjoins the north west boundary of the site.
- 3.3. The site measures approximately 15.86ha and covers the Westfield Farm site which comprises the farmhouse, agricultural buildings and the associated agricultural land. Each field is predominantly lined by hedgerow. There are several mature trees across the site. The topography of the site is varied with the southern side located at the ridge of a hill where the fall falls away to the north where it begins to flatten on the northern side of the site.

## **4. Relevant Planning History**

None applicable.

## **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. In response to the above publicity, 17 letters of objection have been received which are summarised below:
1. Detrimental effect on neighbouring views
  2. Increase in vehicular traffic
  3. Heath Lane is not capable of accommodating the additional traffic
  4. Road widening would destroy ancient field boundaries
  5. Keats Lane is not suitable for additional vehicles attempting to access the development
  6. Adverse impact on the landscape
  7. Ecological impact – there are bats in the area
  8. The housing is unnecessary in this location
  9. Adverse impact on the character of the village
  10. This will lead to further invasions and irreversible destruction of precious green space
  11. There is ample scope for the re-development of brown field sites across the County
  12. Potential flooding issues from the additional surface water runoff and impacts on the adjacent watercourses
  13. Traffic at peak times in Earl Shilton will be excessive
  14. Lack of local amenities are being provided
  15. A number of businesses run on the site that would have to re-locate
  16. Public consultation has been inadequate.

## **6. Consultation**

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

HBBC Affordable Housing Officer  
HBBC Waste Services  
Environmental Health (Drainage)  
Environmental Health (Pollution)  
Leicestershire Police  
Leicestershire County Council (Ecology)  
Leicestershire County Council (Rights of Way)  
Leicestershire County Council (Highways)  
Severn Trent Water Limited  
Environment Agency  
NHS England

- 6.2. Leicestershire County Council (Drainage) – to be provided as a committee late item.

- 6.3. As a result of the Developer Contribution consultation, the following planning obligations are sought:

Leicestershire County Council (Civic amenities) – £17,336  
Leicestershire County Council (Libraries) – £10,563  
Leicestershire County Council (Education) – £2,400,104.88  
Leicestershire Police – £112,697.00  
NHS England – £213,444 or suitable land

- 6.4. Earl Shilton Town Council – no objection in principle subject to suitable mitigation for ecology and flooding and appropriate contributions sought for the medical centre.

- 6.5. Barwell Parish Council – object to the application; no reasons given.

## **7. Policy**

- 7.1. Development Plan 2006 – 2026: Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 5: Transport Infrastructure in the Sub-Regional Centre
- Policy 15: Affordable Housing
- Policy 16: Housing Mix, Density and Design
- Policy 19: Green Space and Play Provision

- 7.2. Hinckley and Bosworth Local Plan (2001)

- Policy RES5: Residential Proposals on Unallocated Sites
- Policy EMP4: Employment Development on Sites other than those Allocated for Employment Uses
- Policy BE1: Design and Siting of Development
- Policy BE7: Development in Conservation Areas
- Policy BE13: Initial Assessment of Sites of Archaeological Interest and Potential
- Policy NE5: Development in the Countryside
- Policy NE10: Local Landscape Improvement Areas
- Policy NE14: Protection of Surface Waters and Groundwater Quality
- Policy T5: Highway Design and Vehicle Parking Standards

- 7.3. Emerging Site Allocations and Development Management Policies DPD

- DM1: Presumption in Favour of Sustainable Development
- DM3: Infrastructure and Delivery
- DM4: Safeguarding the Countryside and Settlement Separation
- DM6: Enhancement of Biodiversity and Geological Interest
- DM7: Preventing Pollution and Flooding
- DM10: Development and Design
- DM11: Protecting and Enhancing the Historic Environment
- DM12: Heritage Assets
- DM13: Preserving the Borough's Archaeology
- DM17: Highways and Transportation
- DM18: Vehicle Parking Standards
- DM20: Provision of Employment Sites

- 7.4. Earl Shilton and Barwell Area Action Plan
  - Policy 10: General Highways Provision for Earl Shilton Urban Extension
  - Policy 19: Regeneration of the District Centres
  - Policy 21: Infrastructure and Delivery
  - Policy 22: Development and Design
- 7.5. National Planning Policies and Guidance
  - National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
- 7.6. Other relevant guidance
  - Play and Open Spaces Developer Contributions SPD

## **8. Appraisal**

### 8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area
- Impact upon the highway
- Drainage and flood risk
- Ecology
- Heritage Assets
- Contamination
- Impact upon amenity
- Developer contributions
- Play and open space
- Public realm

#### Assessment against strategic planning policies

- 8.2. Paragraph 11 - 13 of the National Planning Policy Framework (NPPF) states that:
- 8.3. a) Planning law (ie section 38(6) Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.4. b) The NPPF does not change the status of the development plan as the starting point for decision-making and states that proposed development which conflicts with the development plan should be refused unless other material considerations indicate otherwise.
- 8.5. c) The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- 8.6. The Development Plan (2006 to 2026) is made up of a number of documents that are relevant to this application.
- 8.7. The Core Strategy provides a spatial strategy and directions for growth. The development strategy is based on a hierarchy of settlements with the majority of this growth to be accommodated in and around the Hinckley sub-regional centre.

- 8.8. The Core Strategy identifies that Earl Shilton has a role in supporting Hinckley in fulfilling its role as a sub regional centre. The Core Strategy also identifies that it contain pockets of significant deprivation, particularly relating to income, education skills and training, employment and health and their local centres are in need of regeneration.
- 8.9. In order to support the regeneration of Earl Shilton, a number of strategic measures are identified through Core Strategy Policy 2, for example by:
- allocating a mixed use sustainable urban extension to the south of Earl Shilton;
  - supporting development within Earl Shilton settlement boundary to deliver a minimum of 10 new residential dwellings;
  - ensuring there is a range of employment opportunities within Earl Shilton;
  - supporting the regeneration of the Earl Shilton local centre, including public realm improvements and the development of a focal civic space;
  - supporting the development of new leisure facilities and sustainable public transport links including enhanced walking and cycling connections between Barwell, Earl Shilton, Hinckley, Burbage and the surrounding countryside;
  - requiring transport improvements in line with Policy 5. This includes the delivery of safe, high quality cycling routes and interventions on the strategic road network.
- 8.10. The proposal is outside the identified settlement boundary for Earl Shilton as defined in the Local Plan, Area Action Plan and the emerging SADMP and therefore the site is within the countryside. Saved Policy NE5 of the Local Plan and DM4 of the emerging SADMP seek to protect the intrinsic value, beauty, open character and landscape character of the countryside by safeguarding it from unsustainable development.

#### Residential Development

- 8.11. Paragraph 49 states that housing applications should be considered in the context of sustainable development and that policies relating to the supply of housing should not be considered up to date if the local authority cannot demonstrate a five year supply of deliverable sites. The Council can currently demonstrate a 5.69 year housing land supply and therefore the relevant policies for the supply of housing in the development plan are considered to be up-to-date.
- 8.12. Policy RES5 of the Local Plan states that on sites which are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within the boundaries of an urban area as defined on the proposals map. The proposed residential land falls outside the settlement boundary and is therefore contrary to Policy RES5 of the Local Plan.
- 8.13. The Earl Shilton and Barwell Area Action Plan identifies that the Core Strategy set out a requirement for 2000 dwellings to be provided within the Earl Shilton urban extension at a density of 40 dwellings per hectare (dph) but following further work to inform the preparation of the SUE masterplan, the SUE is more likely to accommodate a minimum of 1600. The exact amount of land to be developed for new homes, employment uses and open space is variable, subject to a number of factors to be considered as part of detailed proposals to be submitted at the planning application stage. The Earl Shilton SUE is allocated in the Area Action Plan which is located to south of Earl Shilton as directed by the Core Strategy.

- 8.14. The applicant comments that the proposed development of 350 dwellings would bridge the gap between the minimum requirement of 2000 homes as set out in the Core Strategy and the 1600 homes as envisaged in the Area Action Plan. However, the emerging SADMP notes that during the preparation of the Core Strategy, the Council included an overprovision of 667 dwellings to act as a contingency should the SUEs not be able to accommodate the 4500 dwellings identified in the Core Strategy. The overprovision has enabled the Council to absorb the shortfall of 400 dwellings that was initially to be provided on the Earl Shilton SUE and no further allocation is made within the SADMP for residential development.
- 8.15. The spatial strategy contained within the Core Strategy seeks to accommodate the majority of the Borough's development requirements in and around the Hinckley sub-regional centre, within the key urban area of the Borough. Where necessary, this will be delivered through sustainable amendments to the settlement boundary. Earl Shilton and the neighbouring settlement of Barwell are planned to increasingly support the sub-regional centre of Hinckley over the plan period and as a result are identified as part of a wider urban area. The ability of Earl Shilton to achieve this sustainably relies upon its regeneration over the plan period, which is a key emphasis of the Development Plan's spatial strategy, in particular Policy 2: Development in Earl Shilton. A range of infrastructure requirements are required through the implementation of the Development Plan in order to support this regeneration. As a result, proposals that seek amendments to the settlement boundary of Earl Shilton are expected to demonstrate how they would support the timely delivery of the infrastructure that is required to support its regeneration.
- 8.16. Although the proposed development is not essential in order to meet the identified housing requirements of Earl Shilton and the sub-regional area, the Core Strategy and SADMP do not prohibit additional development. Residential development in the proposed location has potential for several benefits; an assessment of the sustainability of the site as a whole is assessed below.
- 8.17. Policy 15 of the Core Strategy requires 20% affordable housing to be provided on developments over 15 dwellings with a tenure split of 75% social rented and 25% intermediate housing as a starting point. Following discussions between the affordable housing officer and the applicant around the need and provision within the district, it has been agreed that the applicant shall provide 20% (70 units) affordable housing on-site. The dwellings to be provided as affordable housing provision would be as follows:
- 30% of the scheme (21 units) – 1 bed coach houses;
  - 45% of the scheme (31 units) – 2 bed houses and bungalows;
  - 20% of the scheme (14 units) – 3 bed houses
  - 5% of the scheme (4 units) – 4 bed houses
- 8.18. The above units would be provided with a 70%/30% split between social rented and intermediate housing. The split between the tenure and dwelling type is yet to be agreed but it is requested that the intermediate housing comprises the 2 and 3 bed dwellings.
- 8.19. Policy 16 of the Core Strategy seeks to secure appropriate housing density, mix and design. The mix and design of the designs would be agreed at the reserved matters stage. The development would provide dwellings at approximately 23 dwelling per hectare which is well the policy requirement. The site is relatively constrained due to the shape, topography and landscape characteristics and the proposed scheme would provide a substantial area of informal amenity space which

if discounted would drastically increase the dph. Therefore, a lower provision of dwellings per hectare is justified and considered acceptable in accordance with Policy 16.

#### Employment Development

- 8.20. Earl Shilton has an identified shortage of employment opportunities. Policy 2 of the Core Strategy seeks to ensure there is a range of employment opportunities in Earl Shilton. The proposed development would provide 0.6ha of employment land (Use Class B1(c)) comprising starter units. Policy EMP4 of the Local Plan allows for unallocated small-scale employment sites within settlement boundaries subject to meeting the criteria within the policy. The proposed development land sits outside the settlement boundary and therefore would be contrary to Policy EMP4 of the Local Plan. However, paragraphs 37 and 38 of the NPPF notes that planning policies should aim for a balance of land uses so that people can be encouraged to minimise journey length and undertake day-to-day activities on site. Despite the conflict with the Development Plan policy, the development would provide employment benefits to the existing and proposed population, provided it is concluded that the associated residential development is sustainable. The benefits of the development as a whole are assessed below.

#### Medical Centre

- 8.21. Paragraph 70 of the NPPF iterates that to deliver social, recreational and cultural facilities and services the community needs, decisions should ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefits of the community and ensure an integrated approach to consider the location of housing, economic uses and community facilities and services.
- 8.22. The proposed development is in a location that is close to the Earl Shilton District Centre and can be accessed by sustainable modes of transport. The development would improve vehicular access to the Heath Lane Surgery and create the ability for it to be expanded to serve the growing community. The Earl Shilton and Barwell AAP sets out the intention to expand the facilities at the Heath Lane Surgery over the plan period and this proposal would therefore help facilitate this policy requirement.

#### Loss of Agricultural Land

- 8.23. Paragraph 112 of the NPPF notes that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
- 8.24. Natural England's Agricultural Land Classification map for the East Midlands identifies that the application site does not comprise any Grade 1 or Grade 2 agricultural land. Therefore, with regards to paragraph 112 of the NPPF, the proposed development is considered to be acceptable.

#### Planning Balance

- 8.25. Policy DM1 of the emerging Site Allocations and Development Management Policies DPD (SADMP) and Paragraph 14 of the National Planning Policy



Framework (NPPF) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved and development proposals that conflict should be refused unless other material considerations indicate otherwise. There are three dimensions to sustainable development: economic, social and environmental. These roles are mutually dependant and therefore to achieve sustainable development, such gains should be sought jointly and simultaneously.

#### Economic

- 8.26. Annex 2 of the NPPF states that housing development does not constitute economic development, however it is acknowledged that the proposed scheme would contribute towards the wider economy, through construction jobs. In addition, some employment land is provided, which would be to the benefit of the existing population as well as the population resulting from the housing growth due to the proximity to the town centre. The aim of the Area Action Plan is focused around the regeneration of Earl Shilton and Barwell centres. The proximity of the proposed residential development to the town centre has potential for indirect effects on the local economy due to increased footfall. The proposal would have minimal impacts on the wider economy, but has potential for local economical benefits.

#### Social

- 8.27. The delivery of both market and affordable housing is a social benefit. The proposed development would also support and greatly boost the Council's housing land supply, as well as providing a supply of housing close to Earl Shilton District Centre which provides a range of facilities and services.
- 8.28. The development would facilitate the expansion of the Heath Lane Surgery, which would be required for the residents of the new development and would also indirectly benefit the existing population. The expansion of the Heath Lane Medical Centre is a requirement of the Development Plan 2006 to 2026.
- 8.29. A planning obligation is proposed to contribute towards connectivity and public realm improvements. In addition, a planning obligation is proposed to provide a Multi-Use Games Area at Weavers Springs Park, which would be to mitigate the additional proposed population but would also benefit the existing population as it would introduce a new facility, as well as the on-site provision of play space and equipment. Through the provision of these measures, the proposal is considered to support the regeneration of Earl Shilton.

#### Environmental

- 8.30. The proposal would result in the loss of an area of greenfield, agricultural land; although none of the site is considered to comprise high grade agricultural land. There would be visual harm to the landscape setting, especially when viewed from the countryside to the north of the settlement, and character of the settlement as the northern edge is currently limited to the ridge top location. There would be neutral impacts on biodiversity although this would be as a result of mitigation. Given the proximity of the development to the sub-regional centre and availability of public transport and improvements to footpaths and cycle paths, the level of commuting and distances and would not be excessive. Further details of the environmental impact that the development would create upon the countryside are discussed below.

## Conclusion

- 8.31. The proposed development is contrary to Policies RES5, EMP4 and NE5 of the Local Plan and DM4 of the emerging SADMP as it introduces a new direction of growth for the settlement. However, the development would contribute towards the delivery of infrastructure, including; strategic highways improvements, facilitation of the expansion of the medical centre and public realm improvements, that would support regeneration in Earl Shilton as required by Policy 2 and Policy 5 of the Core Strategy. It also supports the regeneration ambitions for Earl Shilton set out in Policy 19 of the Earl Shilton and Barwell Area Action Plan. Although there are some adverse environmental impacts, when considered in the context of the presumption in favour of sustainable development as a whole, the location is considered suitable for the proposed development.

## Impact upon the Character of the Area

- 8.32. Policies BE1 of the Local Plan and DM10 of the emerging SADMP seek to ensure that new development does not have a detrimental impact on the character and appearance of the surrounding area and that it respects the local distinctiveness and landscape setting. Policies NE5 and RES5 of the Local Plan and DM4 of the emerging SADMP seek to ensure that development does not have a significant adverse effect on the intrinsic value, beauty, or open character and landscape character of the countryside. Policy NE10 designates the application site as a local landscape improvement area where 10% of the site should be set aside for tree planting. These policies are supported by paragraph 17 of the NPPF.
- 8.33. The Landscape and Character Assessment (2006) designates the application site as located within Stoke Golding Vales Character Area. The applicable key characteristics of the wider area are as follows:
- Predominantly flat with only gentle undulations;
  - Mix of arable and pasture with frequent individual trees;
  - Medium scale rectilinear field pattern bounded by mixed hedgerows with scattered hedgerow trees and small copses;
  - Settlement usually associated with local high points;
  - Area criss-crossed by network of small lanes and public footpaths;
  - Area is open and expansive with views occasionally limited by vegetation; and
  - This is generally tranquil, rural character area despite the proximity of Hinckley and the A5.
- 8.34. The assessment notes that Earl Shilton's ridge top location is a distinctive feature resulting in particular prominence from the open countryside to the north and that future expansion will demand careful landscape integration with substantial framework planting to aid development assimilation.
- 8.35. The applicant has submitted a landscape and visual appraisal with the application. The applicant provides further landscape information, the most applicable is as follows:
- Field hedges are low and managed generally with broad sloping sides and a flat top. These hedges appear greatly unaltered and contain a good mix of native species;
  - Streams are lined by taller, less managed vegetation;

- Imposing three storey, white rendered houses form dotted landmark features in the outlying countryside;
  - Countryside to the north is open and expansive but often with a clear skyline ridge formed by low hill undulations;
  - In the distance to the north east is a pylon run and white form of Peckleton Common industrial area;
  - There is a notable urban fringe influence on the edge of the settlement;
  - When viewed from the outlying countryside the towns ridge top location is quite notable as a skyline feature though this is varied.
- 8.36. The submitted landscape and visual appraisal provides an assessment from visual receptors in the area surrounding the application site and concludes that the development would nestle into the existing pattern of the urban edge shouldered by high ground to the east and west and with the urban edge of Earl Shilton immediately to the south. Visibility and potential visual influence extends most notably in a cone to the north. Within the close edge of the town there are only a few notable vantage points otherwise in outlying rural views from the north, the visual effect of the proposed development would be minimal and the composition of the settlement in the scene from these vantage points would not be notably altered by this additional built form.
- 8.37. it is considered that within the surrounding setting of the proposed development, including: dwellings on Heath Lane, dwellings on Keats Lane, users of Wood Street park and users of Heath Lane Surgery, the development would be visible and there would be a moderate degree of impact although the majority of the development would not be significantly noticeable due to the varying topography of the site and the land falling away from the ridge top. From these areas, the immediate area would be impacted although longer distance views of the countryside would be retained.
- 8.38. Within the immediate setting of the proposed development, walkers along the public footpath from Wood Street Park through the site would experience a high magnitude of change and substantial impact on their enjoyment of the countryside. However, this is expected from any greenfield development and the layout and landscaping of the development can be used to lessen the impact.
- 8.39. Users of the footpaths, roads and bridleways in the countryside to the north of the settlement would have a greater appreciation of the proposed change to the setting of the town. At present, the development of the town generally follows the ridge of the hill with some variation of built form but the northern side of the slope remains largely undeveloped and verdant in nature. It is considered that too much weight has been given by the applicant to the impact of the urban fringe features. From the north, the visual impact would be significant as the development would descend down the undeveloped slope from the ridge. The development, when viewed from the north, would present an intrusion into the undeveloped countryside and change the character of the northern edge of the settlement. Whilst some planting could be used to mitigate some visual impacts, the development could not be screened to overcome the character and landscape harm due to the location on a sloping site.
- 8.40. The proposed development would have an adverse impact on the character of the settlement and the visual appearance of the landscape, most noticeable from the footpaths, bridleways and roads to the north of the settlement. Therefore, the proposed development is considered to be contrary to Policies BE1, NE5, NE10 and RES5 of the Local Plan and Policies DM4 and DM10 of the emerging SADMP.

### Impact upon Highway Safety

- 8.41. Policies T5 of the Local Plan and DM17 of the emerging SADMP seek to ensure developments make the best use of existing public transport, provide convenient and safe access for walking and cycling to services and facilities and ensure there is not a significant adverse impact upon highway safety. And, in the case of developments that would generate significant movement, ensure the development is located where the need to travel is minimised, use of sustainable transport can be maximised and the residual cumulative impacts of the development on the transport network are not severe. These are supported by chapter 4 and paragraphs 37 and 38 of the NPPF.
- 8.42. A Transport Assessment (TA) has been submitted with the application. The TA includes: a detailed assessment of the existing highway network, an investigation into the existing public transport routes, an investigation into the location and condition of pedestrian and cycle routes, the availability of local amenities, consideration of the likely impacts of the development on the highway network, consideration of the access via the construction of the site entry off Heath Lane and a study of personal injury accidents of the local highway network.
- 8.43. The proposed residential development is expected to generate 212 AM peak hour two-way trips and 237 PM peak hour two-way trips. The proposed employment development is expected to generate 112 AM peak hour two-way trips and 101 PM peak hour two-way trips.
- 8.44. The TA concludes that the capacity assessments demonstrate that the impact of the proposed development on the local highway network is minimal and all junctions are shown to operate within capacity including when the development traffic is in place. The TA proposed upgrading and realigning of the access onto Heath Lane which would give priority to traffic accessing and egressing the site as opposed to accessing the further section of Heath Lane.
- 8.45. Concern has been raised that the existing access along Keats Lane is not capable of accommodating the additional traffic associated with the development. It should be noted that Keats Lane would only be used for pedestrians, cyclists and emergency vehicles only.
- 8.46. Leicestershire County Council (Highways) was consulted on the application and commented that the impact of development as submitted would be severe in accordance with paragraph 32 of the NPPF. The proposed upgrading of the access onto Heath Lane is acceptable. However, mitigation would be required in respect of the wider off-site implications on the strategic highway network.
- 8.47. The submitted TA considered the proposal as a standalone development, which in the view of the Highways Authority could have rendered delivery of the infrastructure associated with the wider growth in HBBC's adopted Core Strategy and AAP unviable. However, following discussions, the applicant has requested that this site is assessed as contributing to the aims of the Core Strategy and AAP and it is in this context that contributions to mitigate the severe impact have been agreed.
- 8.48. The Highway Authority has requested mitigation measures in accordance with the Strategic Transport Assessment and the AAP. The proposed site would have a strategic influence on the growth of the settlement. The applicant has agreed in principle to contribute towards mitigation measures for the off-site implications of the development. However, the mitigation measures to which the proposed

development should contribute towards is still being negotiated and therefore it is requested that the negotiation and agreement of the agreed contribution be delegated to the Chief Planning and Development Officer.

- 8.49. To comply with DM17 of the emerging SADMP, Government guidance in the NPPF, the CIL Regulations 2011, and the County Council's Local Transport Plan 3, the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use.
- Travel Packs – £18,497.50 (£52.85 per dwelling)
  - 6 month bus passes (2 per dwelling) –£245,000 (£350 per pass)
  - Improvements to 2 nearest bus stops – £6,526 (£3,263.00 per stop)
  - Bus shelter at 1 nearest bus stop – £4,908
  - Real Time Information system at nearest bus stop – £10,000
  - Disability access and signage improvements – £8,760
  - Monitoring fee – £11,337.50
- 8.50. Some of the above contributions would be subject to trigger points as specified in the S106 agreement and therefore the above figures represent the maximum payments that would be applicable.
- 8.51. There is a Public Right of Way that crosses the site. This will need to be re-routed under a Diversion Order. The Masterplan shows an indicative revised PRow route and pedestrian access points at other areas from the site; to open countryside to the west and north; and to the playing fields to the east. Detailed consideration of these would be given via the internal layout at the Reserved Matters application.
- 8.52. It is considered that a safe form of access can be provided to the site and the above contributions can would be used to promote sustainable transport and mitigate the wider vehicular impacts of the development in accordance with Policies T5 of the Local Plan, Policy 5 of the Core Strategy, Policy 10 of the AAP and DM17 of the emerging SADMP.

#### Drainage and Flood Risk

- 8.53. Policy NE14 of the Local Plan and DM7 of the emerging SADMP seek to ensure the protection of surface waters and groundwater quality and that development does not create or exacerbate flooding by being located away from areas of flood risk. These are supported by chapter 10 of the NPPF.
- 8.54. A site-specific flood risk assessment (FRA) has been submitted with the application which addresses issues relating to flood risk, surface water drainage and foul water drainage.
- 8.55. The Environment Agency flood maps identify the site as within flood zone 1 and therefore it is not at risk of fluvial flooding in storm events up to 1 in 1000 years. The FRA assessed the likely impact of flooding from alternative sources including pluvial, sewerage, groundwater and artificial water bodies and it concluded that these pose a low risk to the development.
- 8.56. The FRA confirms that soakage testing was carried out and the results confirmed that infiltration drainage would not be feasible for the disposal of surface water run-off. It is proposed to discharge the surface water into two attenuation ponds situated to the low-lying north west of the site where an appropriate discharge point into the

adjacent watercourse can be found. A network of swales and pipes will direct surface water flows to the attenuation ponds.

- 8.57. It is proposed to discharge foul water generated by the development via a new pumping station and rising main to an existing 525mm combined sewer network located within the southern area just north of Heath Lane.
- 8.58. Severn Trent Water, Environmental Health (Pollution) and the Environment Agency have been consulted on the application and no objections were raised, subject to conditions.
- 8.59. When the application was submitted the Environment Agency was the statutory consultee for flood risk and drainage issues. Due to changes in legislation, Leicestershire County Council (Drainage) is now the Lead Local Flood Authority and therefore the statutory consultee. LCC (Drainage) is currently assessing the submitted information and their response will be provided as a late item to committee.
- 8.60. It is considered that the proposed development would not exacerbate flood risk or has an adverse impact upon surface or groundwater quality and would incorporate sustainable urban drainage in accordance with Policy NE14 of the Local Plan, DM7 of the emerging SADMP and chapter 10 of the NPPF.

#### Ecology

- 8.61. Policy DM6 of the emerging SADMP seeks to ensure that major developments include measures to deliver biodiversity gains and that development does not have an adverse impact on Locally Important Sites. This is supported by Paragraph 109 of the NPPF. Thurlaston Brook hedgerow is a potential locally important site and there is known wildlife on the former landfill site adjacent to Heath Lane Surgery.
- 8.62. Phase 1 & 2 ecology surveys have been submitted with the application which confirm the presence of protected species on and adjacent to the site. Details of the protected species are as follows:
- 8.63. The habitats within the site, including the hedgerows, lines of trees, linear woodland and the off-site woodland in the southeast corner have the potential to provide foraging opportunities for bats. These habitats have not been closely inspected at this stage as the Layout of the site is to be considered as a reserved matter. Further inspection should be undertaken to inform the layout. The farm buildings were inspected for the presence of bat roosts and it was concluded there were no signs within the buildings. However, bats were foraging within the immediate vicinity of the buildings and spotted during emergence surveys.
- 8.64. The field survey carried out on the 18th June 2014 provided evidence that badger was using the site. A main sett with 12 entrance holes is located within the site. Surveys of the neighbouring woodland on confirmed that the main sett extended into the neighbouring woodland situated to the SE corner of the site. The woodland part of the sett consisted of 23 entrance holes. A second, possible subsidiary, sett was located in a dense hedgerow outside of the site boundary approximately 400m north-northeast of the main sett. Although no badger field signs were found within the site fields there were a few trails that were probably badger, located within and to the north of the site. The proposed development could result in the loss of part of a main sett, foraging habitat and commuting routes to the subsidiary sett and neighbouring farmland and therefore mitigation measures would be required. The

Masterplan illustrates a buffer zone could be provided from the sett and this would need to be considered when Layout is considered at the reserved matters stage.

- 8.65. There are several ponds located adjacent to the Heath Lane surgery section of the application site within the former quarry. 5 ponds were surveyed for newts and Smooth Newts and Great Crested Newts were present in all ponds surveyed but primarily concentrated around one pond. The woodland surrounding the pond is considered to be suitable terrestrial habitat and is likely to accommodate the needs of the great crested newt populations associated with the ponds. The grassland and arable habitats on the application site are sub-optimal although the presence of some individual newts cannot be discounted. An EPS license would be required to remove any newts from the site prior to the development and to exclude newts for the duration of the construction period.
- 8.66. The desk study did not return any records of water vole within the search area. Checks of accessible sections of Thurlaston did not locate any signs of water vole and the stream is considered to be sub-optimal for water vole, because it is shallow, narrow and lined by trees. Therefore, the presence of water vole on the site is not anticipated.
- 8.67. Leicestershire County Council (Ecology) was consulted on the application and raised no objection subject to conditions.
- 8.68. The proposed development, subject to conditions, would not have an adverse impact on biodiversity and protected species and could provide net gains in biodiversity subject to the reserved matters. The proposed development is considered to be in accordance with Policy DM6 of the emerging SADMP and paragraph 109 of the NPPF.

#### Heritage Assets

- 8.69. Policies BE7 and BE13 of the Local Plan and Policies DM11, DM12 and DM13 of the emerging SADMP seek to protect conserve and enhance the historic environment, including archaeology, throughout the borough.
- 8.70. The vehicular access to the site from Heath Lane would be located adjacent to the Earl Shilton conservation area. The majority of the development would be located a significant distance from the conservation area although some residential development is shown on the illustrative plan to be within 75m of the conservation area. The built development would be separated from the conservation area by the dwellings fronting Heath Lane. Due to the separation from the conservation area and with scale and layout to be considered as reserved matters, it is considered that a development could be achieved that would not have an adverse impact on the setting of the conservation area.
- 8.71. An archaeological assessment has been submitted with the application. The assessment comprised a desk-based assessment, geophysical survey and a programme of trial trenching. Leicestershire County Council (Archaeology) was consulted on the application and commented that the archaeological potential for the site is significantly more limited than when originally assessed against the data held on the Leicestershire and Rutland Historic Environment Record. Therefore, subject to the developer's commitment to completing the necessary reporting and archive deposition, the proposal will not result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets.

- 8.72. The proposed development would not have an adverse impact on any designated or undesignated heritage assets and is considered to be in accordance with Policies BE7 and BE13 of the Local Plan and Policies DM11, DM12 and DM13 of the emerging SADMP.

#### Contamination

- 8.73. Policy DM7 of the emerging SADMP seeks to ensure the impacts from pollution would be prevented. The existing use of the site for agricultural purposes has the potential to cause contamination issues which would be detrimental to the health of the future occupiers. Environmental Health (Pollution) and the Environment Agency have been consulted on the application and raised no objection subject to conditions.

#### Impact upon amenity

- 8.74. Policy BE1 of the Local Plan and Policy DM10 of the emerging SADMP seek to ensure that development proposals shall not harm the amenity of neighbouring residential properties. Policy DM7 of the emerging SADMP seeks to ensure appropriate remediation of contaminated land in line with minimum national standards. The proposed development would adjoin: nos. 18, 24, 26, 28, 30, 32 Heath Lane and Westfield Farm Cottage.
- 8.75. A noise assessment was submitted with the application. Existing noise levels were measured adjacent to 24 Heath Lane which would be the residence most impacted noise associated with the increased vehicular movements. The report confirmed that the magnitude of noise impact associated with noise level change can be classed as major in the short term at some properties. Results also indicate that the daytime noise level may exceed the World Health Organisation upper guideline. However, it is noted that the noise level change can be classed as minor and the majority of properties benefit from screening. Environmental Health (Pollution) was consulted on the application and raised no objection with regards to noise impacts, subject to conditions for the protection of neighbouring amenity.
- 8.76. An air quality assessment was submitted with the application. Existing air quality data has been gathered to provide background information for the estimated level of change expected as a result of the proposed development. Two receptor points have been identified as the areas most likely to be impacted by increased traffic and associated emissions. The two receptors are at 22 Heath Lane and dwellings at the junction of Wood Street and Heath Lane. The report concludes that the magnitude of change in the concentration of harmful emissions is 'small' with the impacts being 'negligible'. Environmental Health (Pollution) was consulted on the application and raised no objection with regard to the impact on air quality.
- 8.77. Layout is not a consideration under this application and would be dealt with at the reserved matters stage. However, it is considered that sufficient separation distances could be achieved between the proposed development and existing residential properties to avoid issues relating to overlooking, overbearing and overshadowing. Concern was raised over the impact of the development on views from the neighbouring properties. The impact on views from neighbouring properties is given limited weight as a material consideration.
- 8.78. The proposed development, subject to conditions, is considered to be in accordance with Policies BE1 of the Local Plan and DM10 of the emerging SADMP.



### Developer Contributions

- 8.79. Policy IMP1 of the Local Plan (2001) states that contributions towards the provision of necessary on-site and off site infrastructure and facilities to serve the development will be required and the granting of planning permission will be subject to the agreement of planning obligations.
- 8.80. Emerging Policy DM3 identifies that where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism.
- 8.81. Regulation 122 of the CIL Regulations 2010 provides that a planning obligation ( ie in essence a developer contribution) may only constitute a reason for granting planning permission for the development if the obligation is;
  - 8.82. Necessary to make the development acceptable in planning terms, and
  - 8.83. Directly related to the development, and
  - 8.84. Fairly and reasonably related in scale and kind to the development

### Education

- 8.85. A contribution request has been made from the Local Education Authority based on Department for Education cost multipliers on a formula basis.
- 8.86. A Primary School contribution request of £1,016,316.84 has been made for Weaver's Close C of E Primary School.
- 8.87. A Secondary School (11-18 years) contribution request of £1,268,268.75 has been made for Heath Lane Academy.
- 8.88. A Special School contribution request of £115,519.29 has been made for expanding special school provision.
- 8.89. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement. The above contributions have been agreed with applicant and would be secured through a S106 agreement.

### Civic Amenity

- 8.90. A contribution request has been made from Leicestershire County Council Environmental Services for £17,336 for enhancing the waste facilities at Barwell Civic Amenity Site by the acquisition of additional containers or the management of traffic into and out of the civic amenity site to ensure that traffic on adjoining roads are not adversely affected by vehicles queuing to get into and out of the site.
- 8.91. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement. The above contribution has been agreed with applicant and would be secured through a S106 agreement

### Library

- 8.92. A contribution request has been made by Leicestershire County Council Library Services for £13,996.50 for enhancing provision at Earl Shilton Library.
- 8.93. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement. The above contribution has been agreed with applicant and would be secured through a S106 agreement.

### Police

- 8.94. Leicestershire Police has provided detailed justification for a S106 request of £112,697 to contribute toward the following: equipping staff, police vehicles, radio cover/capacity, and police database capacity, control room telephony, ANPR CCTV deployment, mobile CCTV deployment, premises and equipment for additional access hub to serve the locality.
- 8.95. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement. The above contribution has been agreed with applicant and would be secured through a S106 agreement

### Health

- 8.96. Heath Lane Surgery is located adjacent to the application site and therefore is likely to be used by the additional population. The surgery is currently running at capacity and there are plans to extend the surgery in association with the delivery of the Earl Shilton SUE. A contribution of £213,444 has been requested. Or as an alternative, suitable land to facilitate the expansion of the surgery has been requested.
- 8.97. Following discussions between the interested parties, it has been agreed that the developer would provide 0.3ha of land to facilitate the extension to the surgery plus circa 96 car parking spaces as part of a reconfigured car park as well as a contribution of £50,944. Should for any reason, the extension not go ahead then the full monetary contribution would be paid.
- 8.98. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement. The above contribution has been agreed with applicant and would be secured through a S106 agreement

### Play and Open Space

- 8.99. Policy 19 of the Core Strategy and Policies REC2 and REC3 of the Local Plan seek to deliver open space as part of residential schemes. These policies are supported by the SPD on Play and Open Space and Green Space Strategy 2005-2010 & Audits of Provision 2007.
- 8.100. The starting point for negotiation, as set out in the above policy, would be for the provision of 1.4ha of formal recreation space, 0.52ha of informal open space and 0.175ha of equipped play space, all to be provided on site. However, based on the constraints of the site and provision of play equipment in the surrounding the following has been agreed:

- £102,000 towards the provision of a Neighbourhood Play Area (NEAP), providing 9 pieces of play equipment; to be provided on site
- £98,980 towards the maintenance of the NEAP within the application site
- £210,540 towards the provision of a Multi-Use Games Area (MUGA) at Weaver Springs Park, of which £92,400 would be towards maintenance
- £188,123.30 towards the provision and maintenance of 3.76ha of public open space across the application site for a 10 year period (informal amenity space, semi-natural amenity space and kickabout area).

8.101. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement. The above contributions have been agreed with applicant and would be secured through a S106 agreement.

8.102. The maintenance and responsibility of the informal amenity space, semi-natural amenity space, play area and kickabout area shall be transferred to either Earl Shilton Town Council or a management company through the S106 agreement.

### Public Realm

8.103. Policy 19 of the Earl Shilton and Barwell Area Action Plan seeks to secure the enhancement of the public realm, through physical development and / or developer contributions which conform to the respective public realm. The policy specifically relates to developments within the settlement boundary and the application site sits outside of but adjacent to the settlement boundary. The AAP policy is supported through Policy 2 of the Core Strategy which seeks to support the regeneration of Earl Shilton Centre; including public realm improvements and Policy 5 of the Core Strategy which seeks to deliver high quality pedestrian and cycle linkages. Given the proximity of the site to the town centre and the aims for regeneration, it is considered that a contribution towards improvement of the public realm is applicable and shall be secured through Policy DM3 of the emerging SADMP. The agreed contribution, to improve connectivity and the public realm between the site, Wood Street Park and Earl Shilton High Street as part of the Town Team Initiative, is £240,625. The contributions are considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed and should be secured by a Section 106 agreement.

## **9. Conclusion**

9.1. The proposed development is not plan-led and sits outside of, but adjacent to the settlement boundary of Earl Shilton. The location of the proposed development adjacent to the Earl Shilton's urban area and the identified infrastructure improvements would contribute towards ensuring a sustainable form of development, subject to the material impacts of the development.

9.2. The proposed development would result in a number of benefits to the existing and proposed population. It would: contribute to social sustainability through the provision of additional homes which would increase supply and choice for the local population; provide work in Earl Shilton in construction related jobs and services and through the delivery of the proposed employment land; provide additional amenity facilities that would benefit Earl Shilton, including public realm improvements in the District Centre and to public open space; improve road access and provide land that would facilitate the extension of Heath Lane Medical Centre. The benefits that have been identified from this proposal have the ability to

contribute towards the regeneration ambitions for Earl Shilton that are contained within the Core Strategy.

- 9.3. The proposed development would have an adverse impact on the visual appearance, landscape character and settlement character which is contrary to policy. This would be most noticeable from the footpaths, bridleways and roads to the north of the settlement.
- 9.4. The proposed development would be accessed via an upgraded junction onto Heath Lane and contribute towards the provision of improvements towards the strategic highway network and therefore would mitigate the impact on highway safety. Flood risk and increased surface water runoff from the development would be mitigated through the provision of attenuation ponds and a sustainable urban drainage scheme. The impacts on protected species and biodiversity can be mitigated through the use of conditions.
- 9.5. The majority of material impacts of the development can be mitigated through developer contributions, on site works and detailing at the reserved matters stage. It is considered that there is some landscape, visual and character harm which is contrary to policy. However, in accordance with paragraph 7 of the NPPF, environmental impacts are only one consideration that contribute towards sustainable development. The proposed development has significant identified benefits for Earl Shilton which are considered to outweigh the landscape, visual and character harm and therefore the proposed development is recommended for approval.

## **10. Recommendation**

- 10.1. Grant planning permission subject to:
- The prior completion of a S106 agreement to secure the following obligations:
    - Education – Primary £1,016,316.84
      - Secondary £1,268,268.75
      - Special £115,519.29
    - Play and open space - £599,645.30
    - Public realm improvements - £240,625.00
    - Health - £50,944.00 and land
    - Police - £112,697.00
    - Library - £13,996.50
    - Civic amenity - £17,336.00
    - Highways (sustainable transport) – £305,029.00
    - Highways (strategic improvements) - (to be agreed under delegated powers)
  - Planning conditions outlined at the end of this report.
- 10.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions based on those conditions agreed by the committee.
- 10.3. That the Chief Planning and Development Officer be given delegated powers to determine the final terms of the S106 agreement including trigger points and claw back periods based on the terms agreed by the committee

#### 10.4. **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 approved.

**Reason:** To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

2. Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:
  - a) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development
  - b) The scale of each building proposed in relation to its surroundings
  - c) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
  - d) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details.

**Reason:** This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal in accordance with the requirements of Part 3 (5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:-

13.023/02 - Site Location Plan (received on 11 February 2015)

20851\_08\_020\_01g - Heath lane access (received on 6 June.2016)

**Reason:** For the avoidance of doubt and in the interests of proper planning.

4. The development hereby permitted shall be carried out along the lines indicated on the following plans:

13.023/01i - Illustrative masterplan dated 06/2016 (received on 9 June.2016)

13.023/03d - Ecology plan dated 06/2016 (received on 9 June 2016)

13.023/15d - Public open space plan dated 06/2016 (received on 9 June 2016)

for up to 350 dwellings, subject to the details to be submitted to, and approved in writing by, the Local Planning Authority

**Reason:** For the avoidance of doubt and in the interests of proper planning.

5. No development shall commence unless and until such time as representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings/buildings for that phase have been deposited with and approved in writing by the local planning authority. The development shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document.

6. Prior to commencement of development, highway improvement works as shown on ME-C drawing number 20851\_08\_020\_01g shall be provided in full and be available for use.

**Reason:** To ensure adequate and safe access for all modes of transport to and from the development and in the interests of highway safety to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan and Policy DM17 of the emerging Site Allocations and Development Management Policies Development Plan Document.

7. Prior to commencement of development, a detailed design of the proposed emergency services, pedestrian and cycling access at Keats Lane shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure a satisfactory form of development and in the interests of highway safety to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan and Policy DM17 of the emerging Site Allocations and Development Management Policies Development Plan Document.

8. All details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining (including that for cycleways and shared use footway/cycleways) and visibility splays and be submitted for approval by the local Planning Authority in consultation with the Highway Authority before development commences. Note: Your attention is drawn to the requirement contained in the Highway Authority's current design guide to provide Traffic Calming measures within the new development.

**Reason:** To ensure a satisfactory form of development and in the interests of highway safety.

9. No part of the development as approved shall be brought into use until details of a Framework Travel Plan has been submitted to and agreed in writing by the Local Planning Authority:

The Plan shall also specify:

- a) The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator,
- b) The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer.
- c) The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets, and
- d) Additional facilities and measures to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures.

Once agreed, The Plan, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

**Reason:** To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

10. No development approved by this planning permission shall take place until such time as a scheme for the surface water drainage has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:
  1. Details of flood resilience measures including finished floor levels being set no lower than 600mm beyond the flood extents for 1:100 year plus climate change allowance;
  2. An appropriate buffer zone to be provided from the existing bank of the water course;
  3. Provision, implementation and maintenance of a Sustainable Drainage (SuDs) system with storage provided up to the 100 year plus climate change allowance. The scheme should include one treatment train for roofs and two treatment trains for roads and hard-standing areas in line with CIRIA C697 recommendations;
  4. The surface water drainage arrangements should be such that the volumes and peak flow rates of surface water leaving the site are no greater than the rates prior to development.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason:** To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site; to reduce the risk of flooding to the proposed development and future users to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

11. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

**Reason:** To ensure that infiltration drainage techniques are not adopted in areas of the site where residual contamination remains and that contamination is not mobilised to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

12. No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors; and
- potentially unacceptable risks arising from contamination at the site.

- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.



**Reason:** The protection of controlled waters. Potential sources of contamination have been identified, in particular the two landfill sites which lie adjacent to the application site, one to the east and one to the west, and the agricultural buildings in the northeast of the site. We agree with the recommendations to undertake targeted intrusive investigation at the site to ensure that any areas of contamination are identified and addressed appropriately and to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

13. No occupation of any part of the permitted development shall take place until, if necessary in accordance with condition 12, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by, the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

**Reason:** To ensure that any remediation is undertaken in line with the agreed method statement in order to protect controlled waters and to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

14. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To ensure the health and safety of those using the site and to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

15. No development approved by this permission shall be commenced until a scheme for the monitoring of landfill gas on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any landfill gas shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To ensure the health and safety of those using the site and to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

16. Development shall not begin until a scheme for protecting nearby existing dwellings and dwellings forming part of the proposed development from noise from the commercial/industrial elements of the proposed development has been submitted to and approved by the Local Planning Authority. All works

which form part of the scheme shall be completed before permitted development first comes into use

**Reason:** To ensure the development does not have an adverse impact on the amenities of surrounding properties in terms of noise in accordance with Policy BE1 of the Hinckley and Bosworth Local Plan and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document.

17. No development shall take place within each phase of development, until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out the overall strategies for:
- a) The means of access and routing for demolition/ ground work and construction traffic
  - b) The parking of vehicles of site operatives and visitors
  - c) Loading and unloading of plant and materials
  - d) Storage of plant and materials used in constructing the development
  - e) Location of Contractor compound(s)
  - f) Wheel washing facilities
  - g) Management of surface water run-off including details of any temporary localised flooding management system and a scheme to treat and remove suspended solids from surface water run-off during construction
  - h) Temporary highway works
  - i) Prevention of impact to existing and proposed residents from dust, odour, noise, smoke, light and land contamination during construction
  - j) Details of how the above will be monitored and a procedure for the investigation of complaints.

The approved CEMP shall be adhered to throughout the construction period for that phase of development to which it relates.

**Reason:** To ensure the development does not have an adverse impact on the amenities of surrounding and proposed properties in accordance with Policy BE1 of the Hinckley and Bosworth Local Plan and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document.

18. No waste materials shall be burnt on the site at any time during construction phase

**Reason:** To ensure the development does not have an adverse impact on the amenities of surrounding and proposed properties in accordance with Policy BE1 of the Hinckley and Bosworth Local Plan and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document.

19. Construction shall be limited to the following hours:

Monday to Friday: 07:30 - 18:00

Saturday: 08:00 - 13:00

No works shall take place on Sundays and Bank holidays

**Reason:** To ensure the development does not have an adverse impact on the amenities of surrounding and proposed properties in accordance with Policy BE1 of the Hinckley and Bosworth Local Plan and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document.

20. Prior to the commencement of development, a Biodiversity Management Plan for all retained and created habitats, including sustainable urban drainage features, shall be submitted and approved in writing by the Local Planning Authority. The biodiversity Management Plan shall be implemented in accordance the approved details unless otherwise agreed in writing.

**Reason:** To ensure no adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

21. Buffer zones of at least 5 metres of natural vegetation shall be maintained on either side of all hedgerows to be retained.

**Reason:** To minimise adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

22. The sustainable urban drainage features shall be designed to maximise the enhancement of biodiversity.

**Reason:** To ensure the development results in a net gain to biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

23. Any light spill onto retained hedgerows and the Thurlaston Brook corridor, shall be minimised to a value of 1lux or lower at the edge of the habitats.

**Reason:** To minimise adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

24. Prior to each phase of development, to be agreed in accordance with the Layout at Reserved Matters stage, an assessment of risk to protected species (notably badgers and Great Crested Newts) shall be carried out and submitted to the Local Planning Authority. Additionally, survey updates and revised mitigation strategies shall be submitted to accompany the assessment if the previously submitted information is more than one year since its publication.

**Reason:** To minimise adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

25. Prior to commencement of development, exclusion and trapping of great crested newts on the development site shall be carried out in accordance with an EPS licence condition and as recommended in section 5.3 of the submitted document entitled 'Westfield Farm, Earl Shilton Phase 2 Ecology Surveys' by Baker Consultants, dated 26th September 2014.

**Reason:** To minimise adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

26. No vegetation shall be removed on site during the bird nesting season (1st March - 31st July inclusive).

**Reason:** To minimise adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

27. If demolition of the existing farm buildings on site are not completed by 26th September 2016, further bat surveys shall be carried out and submitted to the Local Planning Authority in addition to revised mitigation measures, if necessary, in accordance with the recommendations as set out in the submitted document entitled 'Westfield Farm, Earl Shilton Phase 2 Ecology Surveys' by Baker Consultants, dated 26th September 2014.

**Reason:** To minimise adverse impacts on biodiversity in accordance with Policy DM6 of the emerging Site Allocations and Development Management Policies DPD

28. The development hereby permitted, shall not commence until drainage plans for the disposal of foul sewage has been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to first use of the development.

**Reason:** To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution to accord with Policy DM7 of the emerging Site Allocations and Development Management Policies Development Plan Document.

29. No development shall commence, in any phase, unless and until details of all proposed walls, fences, railings and gates for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details and no building shall first be occupied until the boundary treatments associated with that building have been installed, unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure a high quality of design in accordance with Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

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

**Reason:** To ensure a high quality of design in accordance with Policy BE1 of the Local Plan (2001) and emerging Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

10.5. **Notes to Applicant**

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

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**Reference:** 15/00402/OUT  
**Applicant:** Mrs Sylvia Mainwaring  
**Location:** Land To The Rear Of 122 Middlefield Lane Hinckley  
**Proposal:** Erection of up to 9 dwellings (outline - access only)

## **Background**

This application was reported to committee at its meetings in June and August last year. The report from August is appended to this report and sets out the conditions and S106 contribution that were to be relevant to the grant of permission.

Since the resolution in August 2015 the government has reintroduced the provisions within the national Planning Practice Guidance (paragraphs 012 - 023) in respect of section 106 obligations and developer contributions on small sites. The updated guidance states that contributions may not now be sought for schemes of 10 or fewer dwellings. This will return the applicant and the proposal to the guidance position when the application was submitted in April 2015.

It is therefore considered that, in this instance, the contribution previously resolved to be sought for open space provision and maintenance should not be sought.

As this scheme was previously reported to committee, it is necessary that this matter is determined by members rather than being delegated to officers. The updated recommendation is therefore set out below for committee to resolve.

## **Updated Recommendation**

### **RECOMMENDATION:- Grant outline planning permission subject to:**

- Planning conditions outlined at the end of the report dated 25 August 2016 (attached)
- That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

## REPORT TO COMMITTEE FROM 25 AUGUST 2015

**Reference:** 15/00402/OUT  
**Applicant:** Mrs Sylvia Mainwaring  
**Location:** Land To The Rear Of 122 Middlefield Lane Hinckley  
**Proposal:** Erection of up to 9 dwellings (outline - access only)

**RECOMMENDATION:- Grant subject to conditions and S106 agreement****Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the application has attracted interest from the occupiers of five or more addresses, the views of which are contrary to the officer's recommendation.

Members will recall that this application was deferred at the Planning Committee meeting on 30 June 2015 to enable further discussion and investigation to be undertaken between officers and the applicant's agent and the Council's Estates and Asset Management Team with a view to seeking an alternative access into the application site from Middlefield Lane through land within the ownership of the Council (former Middlefield Lane Depot site).

Since the last Planning Committee meeting, officers have undertaken discussions with the applicant's agent and the Council's Estates and Asset Management Team as requested by Members. Although the former depot site has historically been advertised for sale and expressions of interest have been received, there is currently no resolution/authority to dispose of the site and it is not currently being marketed. The provision of an access to the application site via the former depot site or its car park is not straight forward, as it is likely to affect the value of the Council's land and the sites future development potential. Future development and potential disposal of the site is a separate process that the Estates and Asset Management Team are considering.

In addition to concerns raised by the Council's Estates and Asset Management Team, the applicant has raised concerns in respect of a potential ransom to be sought in exchange for access through the former depot site or car park. This could be a substantial sum that could significantly affect the financial viability of the proposed development.

In view of their concerns regarding the uncertainty of the timescales of the future disposal or development of the depot/car park site and the potential 'ransom strip' payment situation, the applicant's agent has requested that the application be re-presented to the Planning Committee for determination on the basis of the submitted plans.

Notwithstanding the above, subject to timescales, the applicant's agent has indicated that even if outline planning permission is granted by this application, it remains his client's intention to try to seek to negotiate a mutually acceptable solution with the Council to gain access via one of the two available access points through the former depot/car park site.

The previous report to Planning Committee on 30 June 2015 has been updated to include the previous late items agenda and the Government's recent revision of the National



Planning Practice Guidance (removal of paragraphs 012 - 023) in respect of section 106 obligations and developer contributions on small sites.

### Application Proposal

This application seeks outline planning permission, for access only with all other matters reserved, for the erection of nine new dwellings on land to the rear of 122 and 124 Middlefield Lane, Hinckley with access from Middlefield Place. The application is supported by an indicative layout that proposes a central access road and turning head with nine dwellings arranged on either side in three pairs of semi-detached dwellings and a terrace of three dwellings. Two off-street vehicle parking spaces are indicated to serve each plot.

An amended plan has been submitted to address officer comments in relation to remote parking provision and lack of access to rear gardens. Re-consultation has been undertaken.

### The Site and Surrounding Area

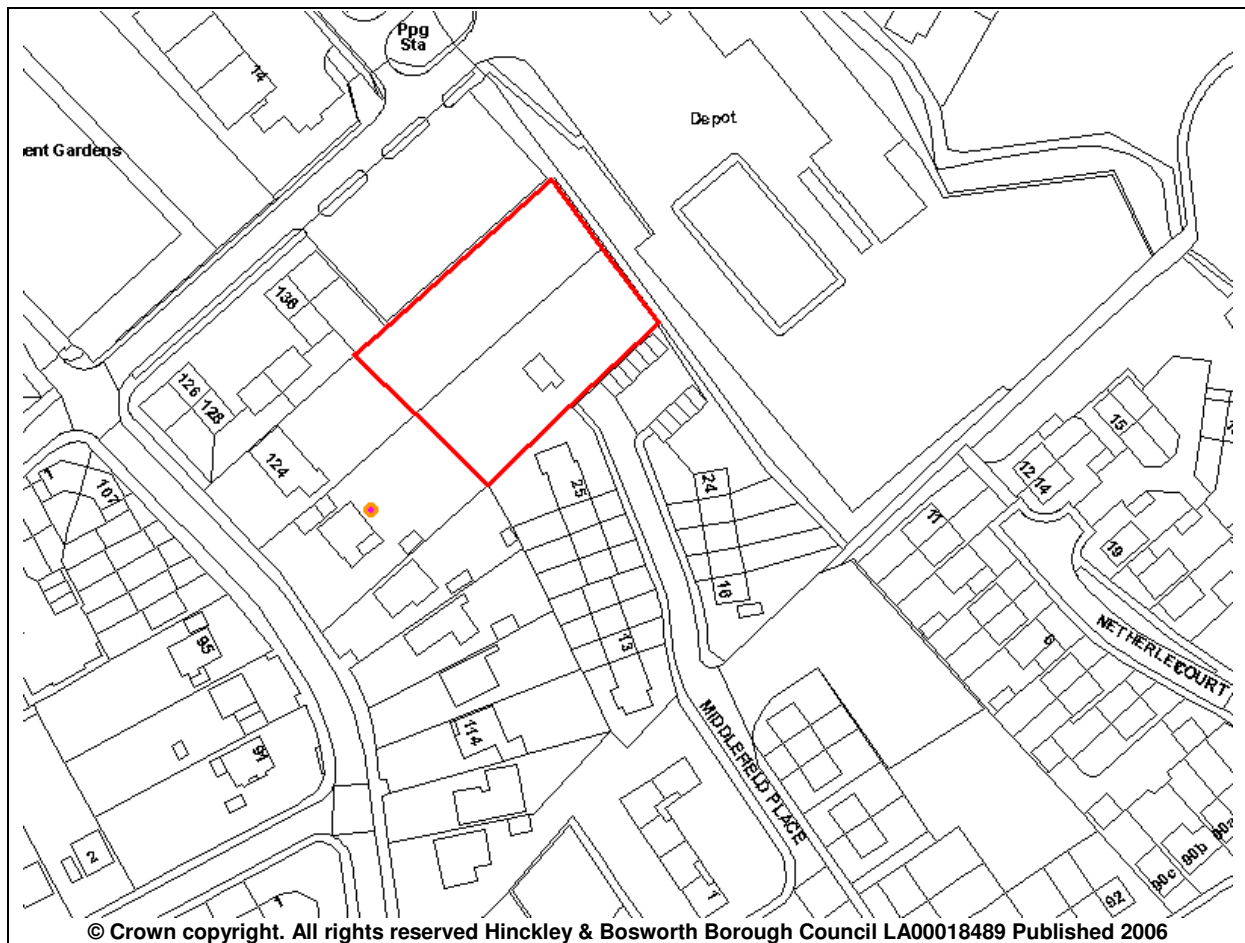
The rectangular application site measures approximately 0.22 hectares and is located within the settlement boundary of Hinckley. It currently comprises part of the rear gardens of 122 and 124 Middlefield Lane, two detached dwellings set within extensive plots. The site is predominantly laid to grass and each contains an outbuilding that would be demolished. The site is enclosed by a mix of hedgerows and a variety of fencing. To the west, south west and south east of the site there are dwellings with a mix of sizes, types, scale and styles. To the north and east lies a former Council highway maintenance depot (currently vacant) and associated vehicle parking and grounds.

### Technical Documents submitted with Application

Preliminary Ecological Appraisal

### **Relevant Planning History:-**

97/00555/OUT	Erection of Four Dwellings	Refused	23.07.97
		Appeal Dismissed	23.04.98



**Consultations:-**

No objections have been received from Environmental Services (Pollution).

No objections subject to conditions have been received from:-

- Leicestershire County Council (Highways)
- Environmental Services (Land Drainage)
- Street Scene Services (Waste)

Leicestershire County Council (Ecology) do not object but recommended that the hedgerows to the north west and north east boundaries are retained to provide locally important wildlife corridors.

Site notice displayed and neighbours notified, objections have been received from 11 separate addresses and in a petition containing 57 signatures from 33 separate addresses raising the following issues and concerns:-

- a) highway safety - inadequate access through a cramped, narrow cul-de-sac road with constant on-street parking and congestion
- b) highway safety - increase in traffic to and from the development and on-street parking
- c) highway safety - lorries, refuse wagons and emergency vehicles have trouble with access
- d) access should be via Middlefield Lane and the access to the old Council yard
- e) garden grabbing - high density overdevelopment of the site that would be out of keeping with surrounding dwellings and would adversely affect the character of the surrounding area

- f) loss of mature trees
- g) contrary to Human Rights Act in respect of detrimental impacts on residential amenity including loss of privacy, loss of light, loss of open aspect and noise nuisance
- h) impact on sewage facilities
- i) adverse impact on existing residents from noise and disturbance during construction phase
- j) adverse impact on highway and pedestrian safety during construction phase
- k) loss of existing parking places and turning area at the point of the proposed access
- l) impact on bat colony
- m) de-valuation of existing dwellings.

One letter of support received from the owner of part of the site on the grounds that the road is capable of supporting the additional dwellings, would not result in additional vehicles being parked in the road and that the proposal would not result in loss of value to neighbouring properties.

**Policy:-**

National Policy Guidance

National Planning Policy Framework (NPPF) 2012  
 National Planning Practice Guidance (NPPG) 2014  
 Community Infrastructure Levy (CIL) Regulations 2010

Hinckley & Bosworth Core Strategy 2009

Policy 1: Development in Hinckley  
 Policy 16: Housing Density, Mix and Design  
 Policy 24: Sustainable Design and Technology

Hinckley & Bosworth Local Plan 2001

The site is within the settlement boundary of Hinckley as defined on the adopted Hinckley and Bosworth Local Plan Proposals Map.

Policy BE1: Design and Siting of Development  
 Policy RES5: Residential Proposals on Unallocated Sites  
 Policy NE12: Landscaping Schemes  
 Policy NE14: Protection of Surface Waters and Groundwater Quality  
 Policy T5: Highway Design and Vehicle Parking Standards  
 Policy IMP1: Contributions Towards the Provision of Infrastructure & Facilities  
 Policy REC3: New Residential Development - Outdoor Play Space for Children

Supplementary Planning Guidance/Documents

New Residential Development (SPG)  
 Play and Open Space (SPD)  
 Sustainable Design (SPD)

**Appraisal:-**

This is an outline application for the erection of nine dwellings with access being the only matter for consideration at this stage and all other matters reserved. The main issues for consideration in the determination of this application are:-

- principle of development
- impacts on the character of the area
- impacts on neighbouring properties
- impact on highway safety
- other issues

### Principle of Development

Paragraphs 11 - 13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision taking and that it is a material consideration in determining applications. The development plan in this instance consists of the Core Strategy (2009) and the saved policies of the Local Plan (2001).

The application site is located within the settlement boundary of Hinckley as defined in the adopted Local Plan where there is a presumption in favour of residential development provided by Saved Policy RES5 of the adopted Local Plan, although this restrictive policy can now be given only very limited weight following the publication of the NPPF. In addition, Policy 1 of the adopted Core Strategy supports development in Hinckley to deliver a minimum of 1120 new homes. The minimum number of dwellings supported by Policy 1 has not yet been achieved (as at 1 October 2014) and notwithstanding that a number of alternative sites have been identified to address the shortfall in the emerging Site Allocations and Development Management Policies DPD (submission draft), this document has not yet been adopted and these sites have not yet come forward.

The National Planning Policy Framework (NPPF) in paragraph 14 provides a presumption in favour of sustainable development. Paragraph 7 of the NPPF states that sustainable development has three interacting dimensions:- the social, economic and environmental roles. The site is located within a sustainable location adjacent to existing residential development and within a reasonable distance of services and facilities. The proposal would contribute to the social role of sustainable development by providing additional housing towards meeting the current shortfall in housing land supply for Hinckley. The construction and sale of the development would contribute to the local economy. The site is a garden of predominantly regularly mown grass and outbuildings, one derelict therefore development of the site would not have any adverse impact on the environment.

Notwithstanding that the proposal may be considered to be a sustainable development and therefore acceptable in principle subject to all other planning matters being appropriately addressed, the NPPF in paragraph 53 suggests that local authorities should consider setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. As such the proposed development of these residential gardens should be considered against adopted Local Plan policies to determine if it would harm the character of the local area.

### Layout and Impact on the Character of the Area

In conformity with the NPPF, Policy BE1 (criterion a) of the adopted Local Plan seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features with the intention of preventing development that is out of keeping with the character of the surrounding area. Policy 16 of the adopted Core Strategy requires new residential development to meet a minimum net density of 40 dwellings per hectare in Hinckley, although in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable. The Council's adopted Supplementary Planning

Guidance on New Residential Development aims to ensure that new development has regard to the character of the surrounding area and is well integrated into its surroundings.

The NPPF in paragraph 56 states that good design is a key aspect of sustainable design. Paragraph 58 seeks to ensure that development responds to local character and reflects the identity of local surroundings. Paragraph 60 states that planning decisions should not impose architectural styles or unsubstantiated requirements to conform to certain development forms or styles but that it is proper to seek to promote or reinforce local distinctiveness. Paragraph 64 states that permission should be refused for development of poor design that fails to improve the character of the area and the way it functions.

Objections have been received that the proposal is an example of 'garden grabbing' and would result in a high density, overdevelopment of the site that would be out of keeping with surrounding dwellings and would adversely affect the character of the surrounding area.

Notwithstanding the objections received, the development of the site for nine dwellings would provide a density of 41 dwellings per hectare in accordance with the minimum density of 40 dwellings per hectare required by Policy 16 of the adopted Core Strategy. The amended indicative layout demonstrates that the site is capable of accommodating nine new dwellings with a pattern of development and plot size that would complement the character of Middlefield Place from where access to the site is proposed. Middlefield Place comprises predominantly smaller terraced dwellings and the layout of the development would provide continuity of the street scene and relate to these dwellings rather than the larger detached dwellings/plots on Middlefield Lane to the south west. This was also the view of the Planning Inspector in a previous appeal relating to part of the site (reference T/APP/K2420/A/97/289216/P5) who stated in his decision that 'because the proposed access would be from Middlefield Place, I consider that the development would be seen in the context of this existing high density, terraced housing on this road.' There are no significant constraints or exceptional circumstances relating to the site to suggest that a lower density would be more appropriate in this case. The indicative garden sizes are generally in accordance with SPG standard or not significantly below SPG standard. Therefore the scheme would not adversely affect the character of the surrounding area and would be in accordance with saved Policy BE1 (criterion a) of the adopted Local Plan, the Council's adopted SPG on New Residential Development and the overarching design principles within paragraphs 56 and 58 of the NPPF.

#### Impact on Neighbours Amenities

Policy BE1 (criterion (i) of the adopted Local Plan and SPG require that development does not adversely affect the amenities or privacy of the occupiers of neighbouring properties.

Objections have been received that the proposal is contrary to the Human Rights Act in respect of detrimental impacts on residential amenity including loss of privacy, loss of light, loss of open aspect and would result in adverse impacts on existing residents from noise and disturbance during the construction phase.

By virtue of the indicative separation distances between the proposed dwellings and all neighbouring dwellings, the amended indicative layout would not result in any adverse overbearing or overshadowing impacts on any neighbouring properties. The smallest separation distance to an existing dwelling being approximately 6 metres to a north west facing side gable. Subject to the approval of final layout, detailed design and position of windows which would be considered at the reserved matters stage and controlled by a suitably worded planning condition, a scheme for nine dwellings would be capable of providing main and habitable room windows in elevations of each plot that would not result in

any significant adverse impacts from loss of privacy from overlooking to any neighbouring occupiers.

Noise and disturbance during the construction phase would be temporary in nature and therefore would not have any long term impacts on the amenities of the occupiers of any neighbouring residential properties.

Notwithstanding the objections received, by virtue of the indicative separation distances and relationship of the development to neighbouring properties, subject to the consideration of additional details at the reserved matters stage (including final layout, scale, design and landscaping) the scheme for nine new dwellings would be able to avoid any adverse overbearing/overshadowing impacts and together with satisfactory positioning of windows and boundary treatments would be able to protect the privacy and amenity of all neighbouring properties from any significant adverse impact from loss of privacy from overlooking. The proposed outline scheme is therefore considered to be in accordance with Policy BE1 (criterion i) of the adopted Local Plan and the Council's Supplementary Planning Guidance on New Residential Development in this respect.

### Highway Safety

Policy BE1 (criterion g) seeks to ensure that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities. Policy T5 applies highway design and vehicle parking standards. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Objections to the scheme have been received on the grounds of highway and pedestrian safety, including children and elderly persons. Objectors raise concerns that the development would have inadequate access through a cramped, narrow cul-de-sac road with constant on-street parking and congestion, would result in an increase in traffic to and from the development and additional on-street parking on a road where lorries, refuse wagons and emergency vehicles already have trouble passing. Objectors also point out that existing parking spaces and turning space would be lost for existing residents at the point where the proposed access is to be formed.

The amended indicative layout suggests a continuation of Middlefield Place, an existing cul-de-sac road and the formation of a new turning head within the proposed development which would benefit both existing and proposed occupiers. The amended indicative layout demonstrates that adequate off-street vehicle parking of two spaces for each plot could be provided in accordance with highway authority parking provision standards therefore it cannot be demonstrated that the proposal would result in any additional on-street car parking within Middlefield Place. The scheme has been considered by Leicestershire County Council (Highways) who consider that the residual cumulative impacts of the development on the highway network can be mitigated and are not considered severe in accordance with paragraph 32 of the NPPF. They therefore raise no objection to the scheme subject to the imposition of a number of standard highway related conditions to ensure satisfactory access width, visibility, gradient, surfacing, drainage, parking and turning provision and in view of the nature of the access road a construction traffic management plan. The conditions are considered to be reasonable and necessary to ensure a satisfactory development and limit any adverse impacts on the highway during the construction phase.

Notwithstanding the objection received, subject to the imposition of standard highway related conditions, the amended scheme would not result in any adverse impacts on highway or pedestrian safety and is therefore considered to be in accordance with Policies BE1 (criterion g) and T5 of the adopted Hinckley and Bosworth Local Plan.

## Developer Contributions

Policies IMP1 and REC3 of the adopted Local Plan and the Play and Open Space SPD require new residential development to contribute towards the provision and maintenance of public play and open space facilities for children. The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. The request for any developer must be considered alongside the guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

Following the recent changes to the NPPG (removal of paragraphs 012 - 023) and the restriction on obtaining developer contributions on small scale sites the scheme is now subject to such considerations. The site is within 400 metres of Richmond Park (neighbourhood equipped area of play) and Jellicoe Way (informal open space) which provide such facilities and therefore falls within the catchment area for developer contributions.

Within the green space audit of 2014 Hinckley was found to have a deficiency of equipped play space of 1 hectare for its population when compared with the National Playing Fields Standard. The quality of the spaces has been considered within the Quality and Accessibility Audit of 2007 which awarded Richmond Park a quality score of only 41.2% and Jellicoe way a quality score of only 44%. In accordance with the Play and Open Space SPD the contribution in this case would total £1250.80 for each new residential unit (provision element of £817.80 and maintenance element of £433.00 per unit) and would be used to provide and maintain additional play equipment and to maintain existing equipped and informal amenity play space to mitigate the impact of the additional dwellings on such facilities.

The size of the additional units proposed would appeal to families and given the proximity of the application site to the open space it is considered that the future occupiers would use the facility, increasing wear and tear and requiring maintenance. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal in accordance with the CIL Regulations, and a contribution is justified in this instance. A section 106 agreement is currently being negotiated to secure the play and open space contribution.

## Other Issues

An objection has been received in respect of potential impact on a bat colony close to the boundary of the site. The Preliminary Ecological Appraisal submitted to support the application is silent on this matter. Leicestershire County Council (Ecology) raises no objections to the application as there are no habitats of note within the site. They consider that if the site is being used for foraging bats this would be along the hedges, particularly to the north west and north east boundaries and it is therefore recommended that these should be retained to provide an important wildlife corridor. This could be secured by a planning condition.

Street Scene Services (Waste) recommend a condition to secure a scheme for the provision for waste and recycling storage at the highway boundary however, the indicative layout demonstrates that adequate highway frontage and storage space for each plot could be provided within the development therefore a condition is not considered to be reasonable or necessary in this case.

Objections have been received that the scheme would result in the loss of mature trees. There are mature trees located along the northern edges of the application site, however, the

indicative layout demonstrates that adequate separation from the trees in respect of built form could be achieved. In addition, the Preliminary Ecological Appraisal submitted to support the scheme recommends that the mature trees around the site boundaries should be retained where possible to support ecology within the area.

The adjacent commercial site is currently vacant and it cannot be demonstrated that the future occupiers of the site would suffer harm to amenity through noise or disturbance from the site in the future. Environmental Health (Pollution) raises no objections to the scheme.

The applicant has no control over the land through which objectors suggest would provide an alternative access.

An objection to the scheme has been received relating to the capacity of the foul sewer system. There is no evidence to suggest that adequate foul drainage from the site could not be achieved and the development would be subject to separate future Building Regulations approval in this respect.

Impact on property values is not a material planning consideration.

### Conclusion

The application site is in a sustainable urban location within the settlement boundary of Hinckley where residential development is generally acceptable in principle and where additional housing is required to meet the minimum requirement for Hinckley identified within Policy 1 of the adopted Core Strategy. The site has adequate access to the adopted highway network and subject to satisfactory final layout, scale, design, appearance and landscaping (which can be controlled by planning conditions), the scheme would provide an appropriate density, would complement the character and appearance of the surrounding area and would not give rise to any adverse impacts on the amenities of the occupiers of any neighbouring properties, highway safety or ecology. The scheme is therefore considered to be in accordance with Policies 1 and 16 of the adopted Core Strategy, Policies BE1 (criteria a, g and i), RES5, IMP1, REC3 and T5 of the adopted Local Plan, the adopted SPG on New Residential Development together with the overarching principles of the NPPF and is therefore recommended for outline approval for access only subject to conditions and the completion of a legal agreement to secure financial contributions towards public play and open space facilities.

**RECOMMENDATION:- That subject to the completion of an acceptable s106 Planning Obligation to secure financial contributions towards public play and open space, the Chief Planning and Development Officer shall be granted delegated powers to grant outline planning permission subject to the conditions below.**

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

### **Conditions:-**

- 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.
- 2 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the local planning authority in writing before any development is commenced:-



- a) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.
- b) The scale of each building proposed in relation to its surroundings.
- c) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
- d) The access arrangements within the site for vehicles, cycles and pedestrians.
- e) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details.

- 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 at 1:1250 scale Drawing No. 101 received by the local planning authority on 2 April 2015.
- 4 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 approved proposed ground levels and finished floor levels.
- 5 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 6 No development shall commence until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the local planning authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 7 All details of the proposed development shall comply with the highway design standards of the Leicestershire County Council as contained in its current design standards document the '6Cs Design Guide'. Such details must include parking and turning facilities, access widths, gradients, surfacing and visibility splays and be submitted for approval by the local planning authority before development commences.
- 8 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and timetable.
- 9 The existing trees and hedgerows located along the north west and north east boundaries of the site shall be retained and prior to any development commencing, including site works of any kind, a scheme for their protection and future management shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved scheme.

**Reasons:-**

- 1 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 2 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.
- 3 For the avoidance of doubt and in the interests of proper planning.
- 4 To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy BE1 (criterion a) of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criterion a) of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development is provided with satisfactory surface water drainage in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure a satisfactory form of development and in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 8 To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area in the interest of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 9 In the interests of visual amenity and biodiversity to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan and paragraph 109 of the National Planning Policy Framework (2012)

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

- 5 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website as follows: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 6 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.  
  
C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.
- 7 Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for surface water management. A proposal to make the LLFA a statutory consultee is currently out to consultation. Please note that from 6 April 2015 the responsibility for approval of sustainable drainage systems will rest with Local Planning Authorities. More information, including options for future maintenance, can be found at: <https://www.gov.uk/government/consultations/sustainable-drainage-systems-changes-to-the-planning-system>.
- 8 This permission is subject to a legal agreement to provide financial contributions of £1250.80 per residential unit towards the provision and maintenance of public play and open space facilities within the vicinity of the site.

**Contact Officer:-** Richard Wright                      Ext 5894

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<b>National Policy Guidance</b>	
<p>Planning Practice Guidance 2014</p>	<p>The Planning Practice Guidance (PPG) was published on 6 March 2014 as a web-based resource. The PPG has cancelled a number of previous planning guidance documents including the majority of previous Circulars and Letters to Chief Planning Officers. The PPG was introduced following the Review of Government Planning Practice Guidance carried out by Lord Taylor with the aim of making the planning system simpler, clearer and easier for people to use. The guidance contains 41 categories from ‘Advertisements’ to ‘Water Supply’.</p> <p>The NPPG is guidance designed to supplement to the National Planning Policy Framework (NPPF). It is therefore a material consideration in planning decisions.</p>
<p>National Planning Policy Framework 2012</p>	<p>The NPPF reiterates the statutory requirement that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.</p> <p>It also states that the document should be read in conjunction with the newly released policy statement on Gypsies and Travellers.</p> <p>The purpose of the planning system is to contribute to the achievement of sustainable development. There are 3 dimensions to sustainable development:</p> <ul style="list-style-type: none"> <li>• An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation</li> <li>• A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services;</li> <li>• An environmental role – contributing to protecting and enhancing our natural, built and historic environment.</li> </ul> <p>At the heart of the NPPF is a <b>presumption in favour of sustainable development</b>, which should be seen as a golden thread running through both plan-making and decision making. For decision making this means:</p> <ul style="list-style-type: none"> <li>• Approving development proposals that accord with the development plan without delay; and</li> <li>• Where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be</li> </ul>

	<p>restricted. (Para 14).</p> <p>Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision making and plan-making should be seamless, translating plans into high quality development on the ground. (Para 186). They should seek for solutions rather than problems and decision-takers at every level should seek to approve applications for sustainable development where possible.</p> <p>Early engagement in pre-application discussions is encouraged where it is offered. Developers should be encouraged to engage with the community.</p> <p>The planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions. (Para 196)</p> <p>In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development (Para 197).</p> <p><u>Implementation</u></p> <p>The policies in the NPPF apply from the day of publication (27<sup>th</sup> March 2012).</p> <p>For 12 months from the day of publication, decision makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.</p> <p>The Hinckley and Bosworth Local Plan was adopted in February 2001, as such it is necessary to review all saved local plan policies according to their consistency with the framework. Due weight must then be given according to their consistency with the NPPF. These are appraised within each application late item.</p> <p>For clarity it should be noted that the following national policy guidance documents referred to in the main agenda are superseded by the NPPF:</p> <p>Circular 05/05  Circular 01/06  NPPF (Draft)  All Planning Policy Guidance and Statements</p>
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<b>Hinckley and Bosworth Core Strategy 2009</b>	
Policy 1	Development in Hinckley: supports Hinckley's role as a sub-regional centre and sets out the criteria to achieve this. It makes

	provision for a minimum of 1120 new residential dwellings, seeks to diversify the existing housing stock in the town centre to cater for a range of house types and sizes, seeks to ensure there is a range of employment opportunities within Hinckley and to allocate land for new office development within or adjoining the Hinckley Town Centre Area Action Plan boundary. It supports the expansion of the creative industries job market, the provision of new retail space, the redevelopment of the railway station to deliver a transport interchange, the provision of a new bus station, transport improvements, tourism development and the development of new leisure facilities.
Policy 2	Development in Earl Shilton: supports the regeneration of Earl Shilton. It makes provision for a minimum of 10 new residential dwellings, seeks to diversify the existing housing stock to cater for a range of house types and sizes, allocates land for the development of a mixed use sustainable urban extension to the south of Earl Shilton, seeks to ensure there is a range of employment opportunities within Earl Shilton, supports the regeneration of Earl Shilton local centre including public realm improvements, the development of a focal civic space and the provision of additional retail floor space. It supports the development of new leisure facilities and sporting hub on land off the A47 in the vicinity of the Hinckley United Football Stadium. It requires transport improvements and supports the development of the tourism industry.
Policy 5	Transport Infrastructure in the Sub-regional Centre: sets out transport interventions which are proposed to support additional development in and around Hinckley. This includes improvements to the provision and management of car parking and public transport to increase the increased use of Hinckley town centre.
Policy 15	Affordable Housing: seeks the provision of affordable housing on residential proposals in the urban areas at a rate of 20% on schemes of 15 dwellings or more or 0.5ha or more and rural area at a rate of 40% on schemes of 4 dwellings or more of 0.13ha or more with a tenure split of 75% social rented and 25% intermediate housing. The affordable housing figure can be negotiated on a site by site basis taking into account identified need, existing provision, characteristics of the site, and viability.
Policy 16	Housing Density, Mix and Design: seeks to ensure that all new residential developments provide a mix of types and tenures appropriate to the applicable household type projections.
Policy 19	Green Space and Play Provision: seeks to ensure that all residents have access to sufficient, high quality and accessible green spaces and play areas.
Policy 24	Sustainable Design and Technology: seeks to ensure all new development meets specified sustainable design and technology standards.

<b>Hinckley and Bosworth Local Plan 2001</b>	
<b>INFRASTRUCTURE</b>	
Policy IMP1	Contributions towards the provision of infrastructure and facilities: requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale

	and nature of the development proposed. <i>This policy is consistent with the intentions of the NPPF.</i>
Policy RES5	Residential Proposals on Unallocated Sites: states that on sites that are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal does not conflict with the relevant plan policies. <i>This policy is consistent with the intentions of the NPPF if the development is within the settlement boundary but has limited consistency in all other locations.</i>
<b>EMPLOYMENT</b>	
Policy EMP4	Employment Development on sites other than those allocated for Employment Uses: supports small scale employment use within settlement boundary and rural areas subject to not being detrimental to residential amenity; not detracting from character and appearance of environment and countryside; provision of necessary highway infrastructure and no adverse impact upon highway network and safety. <i>This policy is consistent with the intentions of the NPPF when proposal is within settlement boundary but has limited consistency in all other cases.</i>
<b>CONSERVATION AND BUILT ENVIRONMENT</b>	
Policy BE1	Design and Siting of Development: requires that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area with regards to scale, layout, density, materials and architectural features; avoid loss of open spaces; has regard to safety; incorporates design features which reduce energy consumption, encourages recycling and minimises impact on local environment; incorporates a high standard of landscaping; meets DDA requirements where necessary; ensure adequate highway visibility and parking standards and manoeuvring facilities; do not adversely affect the amenities of neighbouring properties; and would not be prejudicial to the comprehensive development of a larger area of land of which the development forms part. For residential proposes development should incorporate urban design standards, ensure adequate degree of amenity and privacy and provide sufficient amenity space. <i>Criteria a - i of this policy are consistent with the NPPF and as such the policy should be given weight.</i>
Policy BE5	The Setting of a Listed Building: seeks to preserve and enhance the setting of listed buildings by appropriate control through the design of new development in the vicinity. <i>This policy is consistent with the intentions of the NPPF.</i>
Policy BE7	Development in Conservation Areas: states that primary planning policy will be the preservation or enhancement of their special character. Planning permission for proposals which would harm their special character or appearance will not be granted. <i>This policy is consistent with the intentions of the NPPF.</i>
Policy BE13	Initial Assessment of Sites of Archaeological Interest and Potential: states that any application where triggered, should be accompanied by an initial assessment of whether the site is known or likely to contain archaeological remains.



	<i>This policy is consistent with the intentions of the NPP but NPPF offers more precise guidance.</i>
Policy BE14	Archaeological Field Evaluation of Sites: requires that where archaeological remains may exist, there is a need for an archaeological field evaluation to be carried out by a professionally qualified archaeological organisation or archaeologist. <i>This policy is consistent with the intentions of the NPP but NPPF offers more precise guidance.</i>
Policy BE15	Preservation of Archaeological Remains in Situ: seeks to protect important archaeological remains through planning conditions which require the remains to be left in situ and any damage to the remains to be avoided or minimised through appropriate design, layout, ground levels, foundations and site work methods. <i>This policy is consistent with the intentions of the NPP but NPPF offers more precise guidance.</i>
Policy BE16	Archaeological Investigation and Recording: states that the Local Planning Authority can impose conditions requiring that satisfactory archaeological investigation and recording be carried out. <i>This policy is consistent with the intentions of the NPPF but NPPF offers more precise guidance.</i>
Policy BE26	Light Pollution: seeks to ensure that developments do not create nuisance through glare, create light spillage or affect the character or appearance of the area. <i>This policy is considered to be inconsistent with the NPPF but Policy BE1 is consistent and covers elements of this policy.</i>
<b>THE NATURAL ENVIRONMENT</b>	
Policy NE2	Pollution: states that planning permission will not be granted for development which would be likely to cause material harm through pollution of the air or soil or suffer material harm from either existing or potential sources of air and soil pollution. <i>This policy is consistent with the intentions of the NPPF.</i>
Policy NE5	Development in the Countryside: states that the countryside will be protected for its own sake and that planning permission will be granted for built and other forms of development in the countryside provided that the development is either:-  a) Important to the local economy and cannot be provided within or adjacent to an existing settlement; or b) For the change of use, reuse or extension of existing buildings, particularly those of historic value; or c) For sport or recreation purposes.  And only where the following criteria are met:-  i) It does not have an adverse effect on the appearance or character of the landscape. ii) It is in keeping with the scale and character of existing buildings and the general surroundings. iii) Where necessary it is effectively screened by landscaping or other methods. iv) The proposed development will not generate traffic likely to exceed the capacity of the highway network or impair

	<p>road safety.</p> <p><i>This policy is consistent with the intentions of the NPPF for rural enterprise proposals but has limited consistency in all other respects</i></p>
Policy NE10	<p>Local Landscape Improvement Areas: identifies sites as landscape improvement areas and requires proposals in these areas to include comprehensive landscaping proposals.</p> <p><i>This policy has limited consistency with the intentions of the NPPF.</i></p>
Policy NE13	<p>The Effects of Development on Natural Watercourses: protects the drainage functions of the natural watercourse system and seeks adequate on or off site protection, alleviation or mitigation where it is affected. This includes development in the floodplain; preventing access to watercourses for maintenance; giving rise to substantial changes in the characteristics of surface water run off; causing adverse effects upon the integrity of fluvial defences.</p> <p><i>This policy is consistent with the intentions of the NPPF but NPPF provides more guidance on process</i></p>
Policy NE14	<p>Protection of Surface Waters and Groundwater Quality: seeks to ensure that developments do not compromise the quality of the water environment.</p> <p><i>This policy has limited consistency with the intentions of the NPPF as it is too specific</i></p>
Policy NE17	<p>Protection of the Water Environment from the Development of Contaminated Land: requires the submission of a detailed ground conditions report indicating where appropriate recommendations for remedial treatment where development effects land known to be contaminated as a result of previous land uses.</p> <p><i>This policy has limited consistency with the intentions of the NPPF as it is too specific</i></p>
<b>TRANSPORTATION</b>	
Policy T5	<p>Highway Design and Vehicle Parking Standards: refers to the application of appropriate standards for highway design and parking provision for new development</p> <p><i>This policy is consistent with the intentions of the NPPF.</i></p>
<b>RETAILING AND TOWN CENTRE ISSUES</b>	
Policy Retail 11	<p>Small Local Shops: supports the provision of small local shops in settlements without provision providing they are of appropriate scale and will not have a detrimental effect on the amenities of neighbouring residents and the general character of the area.</p> <p><i>This policy is consistent with the intentions of the NPPF.</i></p>
<b>RECREATION AND TOURISM</b>	
Policy REC1	<p>Development of Recreation Sites: states that planning permission for alternative uses will not be granted for the development of land and buildings currently used for recreation and open space unless in the case of this application, the developer provides an equivalent range of replacement facilities in an appropriate location serving the local community.</p> <p><i>Criteria (a + b) of this policy is consistent with the intentions of the NPPF. Criteria © has limited consistency with intentions of the NPPF as doesn't have to be on the remainder of site</i></p>
Policy REC3	<p>New Residential Development – Outdoor Play Space for Children: requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be</p>

	<p>negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.</p> <p><i>This policy is consistent with the intentions of the NPPF.</i></p>
Policy REC4	<p>Proposals for Recreational Facilities: states that planning permission for new recreational facilities will be granted provided that:-</p> <ul style="list-style-type: none"> <li>a) Any large scale indoor facilities are to be located only in or adjoining built up areas;</li> <li>b) The facility does not have a detrimental effect upon adjacent land uses, or upon the amenities of adjacent residents;</li> <li>c) The form, scale and design of the proposal are in keeping with the area and do not detract from the character of the landscape;</li> <li>d) Adequate parking and access arrangements are provided, and there is capacity in the local road network to accommodate the development;</li> <li>e) Landscaping is provided as an integral part of the proposal;</li> <li>f) Any new development is not detrimental to the rights of way network;</li> <li>g) The proposal does not adversely affect sites of ecological, geological or archaeological significance.</li> </ul> <p><i>This policy has limited consistency with the intentions of the NPPF.</i></p>

<b>Supplementary Planning Guidance / Documents</b>	
New Residential Development SPG	Provides guidance on design issues to ensure new developments are well integrated into their surroundings, offer a good standard of security and amenity to future residents, protect amenity of existing occupiers and are locally distinctive in their appearance.
Play and Open Space Guide 2008 SPD	Sets out the Boroughs approach when considering applications for development likely to generate a demand for open space and play facilities.
Affordable Housing SPD	This expands upon policies contained with the Core Strategy and provides guidance on the thresholds, targets, tenure and mix, local need, design and layout of affordable housing and how the provision should be delivered.

<b>Other Material Policy Guidance</b>	
The Earl Shilton & Barwell Area Action Plan (Consultation Draft November 2010)	Is a masterplan that will be used to guide development in Earl Shilton and Barwell in the period to 2026. The document sets out what the Council considers should be the preferred way forward for Earl Shilton and Barwell.
Site Allocations and Development Management Policies Development Plan Document – Submission version	This document forms part of the Local Plan 2006 to 2026 (formerly LDF). It identifies specific sites for particular uses, such as housing, employment, retail, open space and community facilities that will deliver the aims and vision of the Core Strategy. It also contains development management policies which will be used to assess planning applications over the plan period. This document was published for consultation in February 2014. Modifications to

	this document are currently being prepared in advance of being submitted to the Secretary of State in Spring 2015. A full Examination is likely to take place in the summer of 2015.
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## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 03.06.16

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	RWE	15/00858/FUL (PINS REF 3151312)	WR	Mr Vinny Bhandari Character Developments Newlands Rickmansworth WD3 4EP	Bosworth House 46 New Buildings Hinckley (Additional storey to create 3 No. flats above existing building and amendments to the external appearance of the building)	Awaiting Start Date	
		15/01173/OUT (PINS Ref 3150072)	WR	Mr P Vesty 34 Lindridge Lane Desford	Field Maple House 34 Lindridge Lane Desford (Erection of 1 dwelling (outline - access only) (revised scheme))	Awaiting Start Date	
16/00016/HEDGE	CA	15/00816/HEDGE (PINS Ref APP/H/16/1509)	WR	Mr & Mrs Stokes	90 Forest Road Hinckley (Complaint High Hedges)	Start Date Awaiting Decision	15.04.16
16/00017/PP	RWE	15/00768/OUT (PINS Ref 3146564)	WR	Mrs Sarah Shaw	10 St Martins Stapleton (Erection of 1 No. dwelling (outline - all matters reserved))	Start Date Final Comments	26.04.15 21.06.16
16/00018/PP	RWR	15/00570/FUL (PINS Ref 3146368)	WR	Sachkhand Nanak Dham	Stretton House Watling Street Burbage (Change of use of residential to mixed use of premises to provide accommodation and meeting and teaching facilities, extensions and alterations, alterations to access and provision of associated car parking)	Start Date Statement of Case Final Comments	19.05.16 23.06.16 07.07.16
16/00015/PP	RWE	15/01137/OUT (PINS Ref 3144838)	WR	Mrs Sue Carter	16 Main Street Stapleton (Erection of two dwellings (outline - access only) (revised scheme))	Start Date Awaiting Decision	12.04.16

16/00004/PP	HW	15/00694/FUL (PINS Ref 3144204)	WR	Mr Rober Parkes Asda Stores Ltd	Asda Barwell Lane Hinckley (Demolition of Nos. 26 & 28 Barwell Lane and the erection of an automated petrol filling station)	Start Date Site Visit Awaiting Decision	15.02.16 14.06.16
16/00011/PP	HW	15/01024/OUT (PINS Ref 3144173)	WR	Mr Kevin Jarvis	89 Brookside Burbage (Erection of one new dwelling (outline - all matters reserved) (revised scheme))	Start Date Awaiting Decision	10.03.16
16/00013/VCON	HW	15/00624/CONDIT (PINS Ref 3143843)	WR	Mr Robert Wright	1 Burton Road Twycross Atherstone (Variation of condition 2 of planning permission 10/00133/FUL to allow for the removal of two car parking spaces)	Start Date Awaiting Decision	23.03.16
16/00003/CLD	CA	15/00933/CLUE (PINS Ref 3143504)	PI	Mr Arthur McDonagh	Land To The North Of Newton Linford Lane Newtown Linford Lane Groby (Application for a Certificate of Lawful Existing Use for a dwelling)	Start Date Proof of Evidence (TBA) Inquiry Date - 2 days	12.02.16 20.09.16 18 & 19.10.16
16/00006/ENF	CA	10/00234/UNAUTH (PINS Ref 3143502)	PI	Mr Arthur McDonagh	Land To The North Of Newton Linford Lane Newtown Linford Lane Groby (Caravans present on land in contravention to the court order and enforcement action)	Start Date Proof of Evidence (TBA) Inquiry Date - 2 days	12.02.16 20.09.16 18 & 19.10.16
16/00014/PP	RWE	15/00618/OUT (PINS Ref 3142663)	WR	Mr Julian Carlyle Pinehouse Ltd	36 Station Road Stoke Golding (Erection of single dwelling (outline - access only))	Start Date Awaiting Decision	23.03.16
16/00012/PP	HW	15/00579/OUT (PINS Ref 3142543)	WR	Mr T Barton	Northwood Farm Stud Wood Lane Higham On The Hill (Erection of a dwelling (outline - access only) (resubmitted scheme))	Start Date Awaiting Decision	10.03.16
15/00029/PP	CA	14/01247/COU (PINS Ref 3135595)	IH	Mr Albert Connors	Land To The East Wallace Drive Groby (Change of use of land to 2 No. Gypsy / Traveller pitches, including day room and associated works)	Start Date Awaiting Decision	09.11.15

15/00026/ENF	CA	15/00145/UNUSEH (PINS Ref 3132569)	IH	Michael Cash	Land North West Of Cold Comfort Farm Rogues Lane Hinckley (Unauthorised Traveller Encampment)	Start Date <b>Informal Hearing</b>	26.10.15 <b>07.06.16</b>
15/00013/PP	HW	14/01274/OUT (PINS Ref 3081119)	PI	JH Hallam & Son Ltd	Land Beech Drive Thornton (Residential development of up to 49 dwellings (Outline - access)	Start Date Public Inquiry (4 days)	09.07.15 14-17.06.16
15/00010/HEDGE	JB	14/00065/UNUSES (APP/HH/15/1431)	WR	Michael John Birchall	34 Peckleton Lane Desford (High hedge)	Start Date Awaiting Decision	22.05.15

### Decisions Received

16/00005/PP	SG	15/00529/FUL (PINS Ref 3140436)	WR	Darren Price	Land East Of Heath Road Bagworth (Proposed livestock building with associated access and landscaping)	<b>DISMISSED</b>	<b>09.03.16</b>
16/00010/PP	SG	15/00996/OUT (PINS Ref 3142493)	WR	Mr R Raynor	Land Adj Hill Rise Station Road Desford (Erection of 5 dwellings (outline - all matters reserved))	<b>DISMISSED</b>	<b>19.05.16</b>
	KP	15/00853/TPO	WR	Adam Powell	1A Everards Way Stanton Under Bardon Markfield (Works to laburnum, silver birch x2 and rowan trees)	<b>Appellant was not the applicant - case closed</b>	<b>19.05.16</b>
16/00002/ENF	CA	11/00351/S (PINS Ref 3143780)	WR	Mrs Julia Newton Winfield	231 Shaw Lane Markfield (Unauthorised Change Of Use)	<b>DISMISSED</b>	<b>25.04.16</b>
15/00030/PP	RWR	15/00437/FUL (PINS Ref 3133608)	WR	Thomas Knapp	Land Rear Of 99 To 107 Lutterworth Road Burbage (Erection of a dwelling and associated parking)	<b>DISMISSED</b>	<b>22.04.16</b>

**Rolling 1 April 2016 -3 June 2016**

**Planning Appeal Decisions**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
13	2	11	0	0	2	0	8	0	0	3	0	0	0

**Enforcement Appeal Decisions**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn
1	0	1		



## Appeal Decision

Site visit made on 19 April 2016

**by Julia Gregory BSc (Hons), BTP, MRTPI, MCM**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 April 2016**

**Appeal Ref: APP/K2420/C/16/3143780**

**The Land at 231 Shaw Lane, and Land to the side and rear of 231 Shaw Lane, Markfield, Leicestershire, LE67 9PW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Julia Newton Winfield against an enforcement notice issued by Hinckley & Bosworth Borough Council.
- The notice was issued on 7 January 2016.
- The breach of planning control as alleged in the notice is without planning permission the use of the Land for a dog breeding establishment and the keeping of dogs (other than animals which are incidental to the personal enjoyment of the dwelling at 231 Shaw Lane).
- The requirements of the notice are a) Cease the use of the Land for the operation of a dog breeding establishment and/or for the keeping of dogs that are not incidental to the enjoyment of the dwelling house.
- The period for compliance with the requirements is one month.
- Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
- Therefore the appeal is proceeding only on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

### Preliminary matters

1. It is the duty of the Inspector to correct the notice if that can be done without injustice. Amongst other matters, this allows the appeal to be determined on the basis of the correct allegation.
2. According to the Council the land referred to in the address is all within the curtilage of No 231 Shaw Lane. Although I note there was planning permission granted in 2001 for change of use of the property to a mixed use of residential and the operation of a landscape gardening business<sup>1</sup>, I have no information to demonstrate that the planning permission was implemented. Furthermore, I saw nothing in representations or on site to indicate such use.
3. The allegation as given in the enforcement notice is as detailed in the banner heading above. There is no suggestion that the property is not also being used as a dwellinghouse and indeed the breach and the requirement both refer to the keeping of dogs in association with the dwellinghouse. The Council refer to this mixed use in a delegated report provided with their questionnaire.<sup>2</sup> The appellant confirms that she lives at the property in her statement. There is no allegation that the use of the land as a dog breeding establishment and the

<sup>1</sup> Council reference 01/01120/COU

<sup>2</sup> Council reference 15/00780/COU

keeping of dogs is being carried out as anything other than as a mixed use with the dwellinghouse, which is also confirmed by the appellant's statement.

4. Therefore the breach should allege "without planning permission, a material change of use from a dwellinghouse to a mixed use as a dwellinghouse and for a dog breeding establishment and the keeping of dogs (other than animals which are incidental to the personal enjoyment of the dwellinghouse at 231 Shaw Lane)." I consider that the notice can be corrected without injustice to either main party since this correction, reflects the actual use, statements in representations and does not affect the requirements.
5. For the avoidance of doubt, I shall delete "a)" from the requirements of the notice in paragraph 5 since there are no further steps in the notice.
6. I acknowledge various matters raised by the appellant in her appeal statement about the planning merits of her case. These include a dispute about whether the use causes noise and odour and the comparison of the location of similar uses elsewhere, but as the fee has not been paid and the deemed application has lapsed, it is not for me to reach any conclusion on these matters or determine whether planning permission should be granted.

### **Ground (g) appeal**

7. This appeal is on the grounds that the period for compliance specified in the notice falls short of what should reasonably be allowed. The notice gives one month for the requirements to be complied with. The appellant does not specify any longer period of time for me to consider. However the property is her home and place of work and so she is able to look after her disabled daughter and earn a living together with ensuring the happiness and welfare of her dogs.
8. The Council says that they have considered the appellant's human rights in determining the time period specified for compliance. However they considered the time period to be proportionate in accordance with the National Planning Policy Framework paragraph 207. The Council has been seeking to resolve the situation since 2011, but planning permission has been refused for the use<sup>3</sup>. Also the Council's Environmental Health Department has refused a licence to breed "this amount of dogs" although precise details of numbers have not been provided. The appellant is a tenant and the owner is seeking possession of the property under the Housing Act 1988, Section 21(4)(a). I understand from the Council that this is being challenged in the courts by the appellant.
9. I acknowledge that the Council wishes to resolve the unauthorised use that has been going on for many years. That use they argue in their reasons for issuing the notice causes noise from barking dogs and odour. I have had due regard to those concerns.
10. Nonetheless, I saw when I visited the site the obvious attachment and affection that the appellant has for her animals. I note her concern for their happiness and welfare. It seems to me that one month in the circumstances where there are currently some 18 or so dogs at the property as seen on my site visit would be excessively short to find suitable new homes for animals not incidental to the enjoyment of the dwellinghouse.

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<sup>3</sup> Council reference 15/00780/COU

11. I am also mindful of the personal circumstances of the appellant. It may take some time to find alternative sources of income or employment to support herself and her family including her disabled daughter. I consider in all the circumstances that 3 months would be a more proportionate time period to require compliance with the notice, striking a balance with the expediency for issuing the notice.
12. That the owner is seeking repossession of the property has little bearing on this conclusion, since that is subject to separate legislation upon which it would be inappropriate for me to comment.

### **Conclusion**

13. For the reasons given above I conclude that a reasonable period for compliance would be 3 months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

### **Decision**

14. It is directed that the enforcement notice is corrected by deleting the breach of planning control alleged in paragraph 3 and replacing it with the words "without planning permission, a material change of use from a dwellinghouse to a mixed use as a dwellinghouse and for a dog breeding establishment and the keeping of dogs (other than animals which are incidental to the personal enjoyment of the dwellinghouse at 231 Shaw Lane)."
15. It is also directed that the enforcement notice is corrected by deleting "a)" at the start of paragraph 5.
16. It is directed that the enforcement notice is varied by deleting the words "One month" in the time for compliance in paragraph 6 and replacing them with the words "Three months".
17. Subject to these corrections and variation the appeal is dismissed and the enforcement notice is upheld.

*Julia Gregory*

Inspector

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## Appeal Decision

Site visit made on 7 April 2016.

**by Martin H Seddon BSc DipTP MPhil MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 April 2016**

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**Appeal Ref: APP/K2420/W/15/3133608**

**Land rear of 99 to 107 Lutterworth Road, Burbage, Leicestershire, LE10 2DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Thomas Knapp against the decision of the Hinckley and Bosworth Borough Council.
  - The application Ref 15/00437/FUL dated 12 April 2015 was refused by notice dated 8 June 2015.
  - The development proposed is the erection of one dwelling, associated parking and improvements to access off highway.
- 

### Decision

1. The appeal is dismissed.

### Main issues

2. The main issues are:
  - the effect of the proposal on the character and appearance of the area;
  - the effect on the amount of useable amenity space, and
  - the impact of the proposal on the living conditions of neighbours at Nos. 101, 103, 105 and 107 Lutterworth Road and Bluebell Corner in respect of privacy and outlook.

### Reasons

#### *Effect on character and appearance*

3. The appeal site is an area of land that formed part of the rear gardens of the small terraced houses of Nos. 101 to 107 Lutterworth Road. It is located between the rear garden of No.99 Lutterworth Road and the modern dwelling of Bluebell Corner and its detached garage.
4. The terraced houses face the highway. Bluebell Corner also faces an access road. The Local Development Framework *Burbage Village Design Statement Guidance Note GN2: Design Principles* advises that any future development should reflect the basic settlement character with houses tending to front onto lanes and roadways. The proposed dwelling would have its main front elevation facing the rear of the terraced properties and separated by a short access area.

5. A dwelling of the size, scale and siting proposed would be out of character compared to the form and orientation of surrounding development. It would conflict with policy BE1(a) of the Hinkley and Bosworth Local Plan which requires development to complement or enhance the character of the surrounding area. It would also conflict with the design objectives of the National Planning Policy Framework (the Framework).
6. The appellant has referred to examples of backland development in the area. Nevertheless, their particular site circumstances would not be identical to those at the appeal site. The Council has commented on the background to some of the examples in its statement of case. This appeal has been determined on the basis of the individual merits of the proposal having regard to relevant development plan policies and all other material considerations.

#### *Amenity space*

7. The Council's case is that the proposal would remove the only potentially useable amenity space for the dwellings of 101-107 Lutterworth Road. The application form indicates that notice of the application was served on three persons other than the applicant with an interest in the land, including a resident at No.103 Lutterworth Road. The appellant advises that the land is separated from the above dwellings by the access, making it dangerous for children to use. In addition, part of the land is used for garaging by someone who does not own one of the houses.
8. In the previous appeal regarding outline permission for residential development (ref: APP/K2420/A/06/2008050/NWF) the Inspector found that the loss of the gardens would cause harm for the occupiers of Nos.101-105 Lutterworth Road. The proposed development would leave the terraced dwellings without the possibility of an adequate area of amenity space, in conflict with Local Plan policy BE1(i), the Council's supplementary planning guidance: *New Residential Development* and the core planning principles in the Framework. Nevertheless, the land appears to be neglected and its loss as gardens would be insufficient reason on its own to warrant dismissal of this appeal. However, it does add weight to the decision.

#### *Effect on living conditions*

9. In the previous appeal the Inspector considered that the size and position of the plot, with development on three sides, would be difficult to develop without adverse effects on the living conditions of current and future occupiers.
10. The dwelling of Bluebell Corner has a gable end wall facing the rear windows in properties at Lutterworth Road. In contrast, the proposed dwelling would have its front elevation facing Nos. 101-107 Lutterworth Road. The Council advises that a separation distance of around 23-25 metres would be achieved between these existing terraced dwellings and the proposed dwelling. This would be, in part, just short of the Council's minimum standard of 25 metres referred to in its supplementary planning guidance: *New Residential Development*. However, even if a 25 metre minimum separation distance was achieved, a significant number of dwellings would be affected by a detrimental loss of privacy, with a lack of any significant screening to prevent overlooking from windows in the new dwelling, particularly for the rear first floor windows in the terrace.

11. The dwelling of Bluebell Corner would have a first floor bedroom window facing a mainly blank gable end wall of the proposed dwelling at a separation distance of around 5 metres. Only one window serves this first floor bedroom in Bluebell Corner and the proposal would cause a significant loss of outlook for its occupants. The proposal would conflict with Local Plan policy BE1(i) which seeks to ensure that development does not adversely affect the occupiers of neighbouring properties. It would also conflict with the core planning principles in the Framework that seeks to ensure a good standard of amenity for existing occupants of land and buildings.

### **Other Matters**

12. The appellant refers to the site as 'brownfield'. However, private gardens are excluded from the category of previously developed land in the Framework. The proposal would provide an additional dwelling in the Borough, but the benefit would be limited as the Council has advised that it can demonstrate a five years housing land supply.

### **Conclusion**

13. All other matters raised have been taken into account. For the reasons given above the appeal is dismissed.

*Martin H Seddon*

INSPECTOR

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## Appeal Decision

Site visit made on 12 April 2016

by **Alexander Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 May 2016

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**Appeal Ref: APP/K2420/W/15/3140436**

**Land East of Heath Road, Bagworth, Leicestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Darren Price against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 15/00529/FUL, dated 8 May 2015, was refused by notice dated 4 September 2015.
  - The development proposed is a livestock building with associated landscaping.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. At the time of my site visit, alterations had been made to the existing access that serves the appeal site. However, these alterations did not form part of the application submission. There is no evidence that interested parties have been given the opportunity to comment on this alteration. Due to change in the access being a substantial and significant alteration to the proposal, accepting the amendments could prejudice interested parties. Accordingly I have determined the appeal based on the application submission.

### Main Issue

3. The main issue in this appeal is the effect of the development on the character and appearance of the area.

### Reasons

4. The appeal site is located within the open countryside, with no immediate neighbours. Adjacent to the eastern boundary is Heath Road which leads to the village of Bagworth to the north. The boundary with the road comprises a hedge and high timber fencing that partially screens the site. To the north and west of the site is woodland, which further assists in screening the site from distant views from the north. The general openness of the site contributes to the overall rural character of the area.
5. The site comprises an area of hardstanding with an existing metal clad building in the North West corner of the site, which comprises two loose boxes. At the time of my site visit each of these was occupied by a single horse. Two touring caravans were also sited on the hardstanding with a further one in the open field that lies to the south and east of the hardstanding. Due to the

- topography of the area, the hardstanding is on higher ground than the field, which slopes down from north to south.
6. The proposed building would be larger than the existing building and would be positioned further into the site, away from the road. It would measure approximately 10m x 15m with a ridge height of 5m and would be of a typical agricultural design. Whilst the site provides some existing screening by way of the trees to the north and the hedge to the east, due to its size and its exposed position at the top of the field, the building would be readily visible from views along Heath Road. Furthermore, the building would also be apparent when viewed from the footpaths to the south east of the site. I understand the appellant's consideration of the siting of the building being located close to the existing building and on the existing hardstanding. Notwithstanding this, by reason of its scale and siting, the building would introduce an intrusive form of development that would detract from the overall openness of the area.
  7. I note that the appellant has suggested providing landscaping in order to reduce the visual impact of the development. However, I am not satisfied that landscaping would screen the development to such a degree that it would sufficiently screen the building. Furthermore, the building would be readily visible whilst any planting matured and would likely remain visible during the winter months.
  8. In addition, the proposed access track would be approximately 60m long. The introduction of such a long stretch of hard surface that further encroaches into the field would introduce an urban form of development that would significantly harm the openness and rural character of the open countryside location. The proposed amended access provides access to the hardstanding directly off Heath Road, therefore minimising the need for additional hard surfaces. However, the work that has been undertaken, including providing a wide access frontage bounded by high, close boarded timber fencing is very urban in its appearance. Whilst partially screening the building behind it, it introduces an incongruous and intrusive feature to the area, which generally has agricultural openings comprising metal gates set within the existing hedge line.
  9. The appellant confirms that the purpose of the proposed building is to accommodate horses, particularly those due to foal or those with foal at foot, and to over-winter them. I note that the appellant owns 4 stallions and 31 brood mares, although it would be unlikely that all of these could be accommodated within the existing and proposed buildings.
  10. I appreciate that the building may improve the welfare of the horses. I note that the Council accept there is a need for the building. However, there is limited evidence before me regarding how the horse breeding business operates and there is no evidence of how the building would contribute to the local economy. Consequently, I am not satisfied that the benefits of the proposal to the business and the local economy outweigh the harm the development would have on the character and appearance of the area.
  11. I find therefore, that the development would significantly harm the character and appearance of the area, contrary to saved Policies BE1 and NE5 of the Hinckley and Bosworth Local Plan, which, amongst other matters, seek development that complements or enhances the character of the surrounding area and state that development in the countryside will be only be granted subject to it being important to the local economy.

**Conclusion**

12. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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## Appeal Decision

Site visit made on 17 May 2016

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 08 June 2016**

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**Appeal Ref: APP/K2420/W/16/3142663**

**Crown Acre, 36 Station Road, Stoke Golding, Leicestershire CV13 6EZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Julian Carlyle against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 15/00618/OUT, dated 29 May 2015, was refused by notice dated 15 December 2015.
  - The development proposed is the erection of a single dwelling off Station Road.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The appeal was submitted in outline with access only to be determined at this stage. I have considered the appeal on this basis, with the submitted layout plan being for indicative purposes only.

### Main Issues

3. The main issues raised in this case are:
  - the effect of the proposed development on the rural character and landscape of the area having particular regard to the established pattern of development;
  - the effect of the development on the significance of local heritage assets in particular the Stoke Golding Conservation Area and the Registered Bosworth Battlefield;
  - the effect of the development on protected and other trees.

### Reasons

#### *Rural character*

4. The appeal site forms part of the garden to the residential dwelling at 36 Station Road. The property is located in a large plot set well back from the road, accessed by a long private drive. It lies on the edge of the settlement of Stoke Golding adjacent to open agricultural fields to the north and west. The appeal site is relatively flat and sits in an elevated position with the surrounding land sloping down to the north and west towards the Ashby Canal

approximately 250 metres to the west and 300 metres to the north. Station Road to the west of the appeal site is characterised by linear residential development, whilst to the east lie the residential cul de sacs of Crown Hill Close and Andrew Close.

5. The proposed dwelling would be sited in the south west corner of the appeal site, behind Nos. 38 and 40 Station Road. This siting would be at odds with the established pattern of development that of a linear built form along Station Road. I acknowledge that No.36 is set back from Station Road but this existing dwelling sits behind and to the side of properties on Crown Hill Close and does not therefore physically relate to the linear development on Station Road.
6. When viewed from the canal towpath the appeal site sits in an elevated position bounded by mature landscaping and trees. The existing residential property is a clear feature at the edge of the settlement. The indicative plans submitted show that the appeal property would form a dormer bungalow, which whilst being set further back into the site than the existing house would be visible through breaks in the existing landscaping. This would result in a consolidation of built form on the edge of the settlement which would adversely affect the visual appearance and rural character of the area.
7. I acknowledge that the built edge of the settlement appears urbanised particular in the area around Crown Hill Close and Andrew Close where there is less landscaping to visually soften the built development at the edge of the settlement. In contrast the appeal site contributes to a more natural well landscaped edge to the settlement. I consider that further built development on the site would have an increased urbanising effect and would be detrimental to the rural character and appearance of this area of Stoke Golding.
8. I conclude that the proposed development would be at odds with the established pattern of development in the locality and result in an increased urbanising effect causing harm to the rural character of the area. The development would therefore conflict with saved Policy BE1 of the Hinckley and Bosworth Local Plan (LP) 2001 and Policy DM10 of the emerging Site Allocations and Development Plan Policies DPD (SADMP) which aim to safeguard and enhance the existing environment and character of the surrounding area. These policies I consider to be generally consistent with the National Planning Policy Framework (the Framework), in particular paragraph 17 which has similar objectives.

#### *Designated heritage assets*

9. The appeal site lies within the Stoke Golding Conservation Area which includes within its boundary part of the Registered Bosworth Battlefield, a heritage asset of national significance. A significant characteristic of the Conservation Area is its historic interest and the village's connection to the Battle of Bosworth.
10. The appellant has argued that the boundary of the Battlefield would be more logical if it followed the curtilage of the dwelling and that there is no specific evidence provided to explain the significance of the appeal site to the designated heritage asset. I note that the Battlefield has been the subject of extensive research which has identified the extent of its area. As a result of this research English Heritage re- evaluated the boundary resulting in its amendment in 2013.

11. The character of the Battlefield is one of undeveloped open land. Whilst the appeal site lies on the periphery of the designated Battlefield site and is in a residential use, as a result of its open undeveloped nature, I consider that it continues to make a significant contribution to its character. The proposed dwelling would result in the encroachment of built form into this area. This would have an adverse impact on the appreciation of the Battlefield boundary. I accept that this does not currently follow any defined physical features within the appeal site. However the proposed building would intrude into the Battlefield area and its presence would have an adverse impact on its visual extent and open character.
12. I acknowledge that the appeal site has been altered over time and that the area of the proposed dwelling once included a swimming pool. However it still retains its open character and therefore makes a positive contribution to the character of the Battlefield.
13. There is a statutory duty set down in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving or enhancing the character or appearance of conservation areas when considering development proposals. The National Planning Policy Framework (the Framework) in paragraph 132 requires great weight to be given to the conservation of designated heritage assets, which include conservation areas and battlefields. In paragraphs 134 and 135 it draws a distinction between substantial harm and less than substantial harm to such assets. Given the scale of the appeal proposal and its effect on the Conservation Area and Battlefield as a whole, I consider this harm would be less than substantial in this case.
14. In line with guidance, this harm must be weighed against the public benefits of the proposal. The proposal would result in a dwelling in a sustainable location which would contribute to the supply of housing in the area. However these benefits would in my view be very limited and would not significantly or demonstrably outweigh the harm of the proposal to the significance of the Registered Battlefield and the Conservation Area.
15. The proposal would conflict with saved LP Policies BE7 and BE17 and Policies DM11 and DM12 of the emerging SADMP which aim to protect and enhance the historic environment. I consider these policies to be generally consistent with the Framework in particular Section 12 and paragraphs 17 and 56 which have similar aims.

*Protected and unprotected trees*

16. The appeal site is bounded by a number of mature trees. I note that since the Council's decision on the original planning application, a Tree Preservation Order has been imposed on two Ash trees to the south of the application site.
17. The indicative plan accompanying the application illustrates the proposed dwelling sited close to the protected and other trees on the site where there could be incursion into the root protection areas adversely affecting the longevity of the trees. I acknowledge the importance of the protected trees to the character and appearance of the Conservation Area. However I am mindful that the appeal proposal is in outline and that siting is not a matter to be determined at this time. I consider that the appeal site is of an adequate size for the siting of the dwelling to be amended to safeguard the trees in the

vicinity of the proposed dwelling. Therefore this forms a matter which could be addressed in detail at the reserved matters stage were the appeal to be allowed.

18. I consider that the appeal proposal would not cause harm to protected or unprotected trees within the site. The development would therefore comply with the objectives of saved LP Policies BE1, BE7 and NE12 and SADMP Policies DM10, DM11, DM12 which aim to retain and protect existing landscape features, trees and the historic environment. These policies are generally consistent with the Framework in particular paragraph 109 which aims to enhance the natural and local environment and minimise impacts on biodiversity.

### **Conclusion**

19. I conclude that the development would cause harm to the rural character of the area and the significance of the Conservation Area and Registered Battlefield, designated heritage assets. Whilst I have found that the appeal proposal would not cause harm to protected or other trees, this would not significantly or demonstrably outweigh the harm I have identified.
20. For the reasons given above and having regard to all other matters raised, I dismiss this appeal.

*Helen Hockenfull*

INSPECTOR



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## Appeal Decision

Site visit made on 26 April 2016

**by Anne Jordan BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 May 2016**

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**Appeal Ref: APP/K2420/W/16/3142493**

**Land adjacent to Hill Rise, Station Road, Desford, Leicestershire, LE9 9FP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr R Raynor against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 15/00996/OUT, dated 11 September 2015, was refused by notice dated 10 November 2015.
  - The development proposed is 5 dwellings (including 2 x affordable).
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was made in outline form with all matters reserved.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

#### *Policy Background*

4. The Development Plan for the area is made up of the *Hinckley and Bosworth Core Strategy (CS)*, which was adopted in 2009 and the *Hinckley and Bosworth Local Plan (LP)* which was adopted in 2001. Policy 7 of the CS identifies Desford as a Key Rural Centre and seeks to support the provision of housing within its settlement boundaries. Saved Policy RES5 of the LP also seeks to restrict new residential development to within settlement boundaries. Saved Policy NE5 of the LP seeks to protect the countryside for its own sake by resisting residential development within it. Policy BE1 of the LP seeks development which safeguards and enhances the existing environment and avoids the loss of features which contribute to the quality of the local environment.
5. Both adopted plans predate the *National Planning Policy Framework (The Framework)*. The Framework advises where a development plan is out of date, due weight should be given to the policies within it in accordance with their degree of consistency with the guidance contained within the Framework. The Framework varies from the Local Plan in that rather than precluding

development outside defined settlement boundaries it refers instead to the need to resist isolated new dwellings in the countryside. However, the Framework also recognises the intrinsic character and beauty of the countryside. Therefore insofar as the policies above seek to protect the countryside and seek to ensure that any development within it enhances its character, the aims of the above plan policies are consistent with those of the Framework.

6. The emerging *Hinckley and Bosworth Development Management Policies Development Plan Document (DPD)* is still in preparation. Policy DM4 seeks to protect the open character of the countryside by resisting unsustainable development. Policy DM10 seeks development which enhances the surrounding area. These aims broadly reflect those of the Framework expressed above. Nevertheless, as I cannot be sure that these policies will be adopted in their current form, this reduces the weight I can attribute directly to them.

#### *Character and Appearance*

7. The appeal site lies adjacent to the former railway station at Desford, some distance from the main settlement. A ribbon of mostly detached dwellings extends along the eastern side of Station Road, from the station into the village. The western side, which contains the appeal site, comprises open fields which from the elevated railway line are interrupted only by the former station, now known as Station House and the property known as Hill Rise. This sits in a very large garden which immediately adjoins open fields to the rear.
8. The parties dispute whether the appeal site is previously developed land. However, regardless of the site's recent history as it currently appears it is open and largely flat, with some mature trees and planting evident along the site boundaries, particularly towards the front of the site. It sits below the level of the railway line and Station House and in views from the highway, due to the absence of development, and the planting and trees towards the front, it is perceived as part of the open and undeveloped belt of countryside to the west of Station Road. In views from the rear, from the public footpath and across farmland, its openness, and the planting on it, contribute to the rural character of the area.
9. The application is for 5 dwellings. In order to facilitate development trees and vegetation would need to be cleared along the site frontage. This would have a slight urbanising effect upon the verdant character of this part of Station Road which would be apparent on the approach from the south. However, it would be in views from the rear that the effects of the proposal would be most striking. Taking into account the shape of the site, and the width of its frontage, in order for the proposed amount of development to be comfortably accommodated it is likely that the dwellings would extend significantly beyond the footprint of Hill Rise and Station House which both sit relatively close to Station Road. As a result, even though the development would sit between two existing dwellings, it would appear very prominently visible in wide ranging views across the open fields from the west and south. This would be notable from the public footpath where it would have an intrusive and erosive effect upon the rural character of the landscape in this location.
10. I have considered whether the effects of the development could be mitigated by planting. For such screening to itself not appear intrusive in the rural

landscape, a natural hedged boundary would need to be employed. Taking into account the likely height of even a single storey dwelling, such planting would be unlikely to effectively screen development of the quantum proposed. I have also considered the examples of other residential development, closer to Desford, put forward by the appellant. However, these are some considerable distance from the appeal site and so have little bearing on the character of the site before me.

11. Of the policies put forward by the Council I consider policies BE1 and NE5 to be most relevant. Due to the extent of development proposed the proposal would fail to enhance the established character of the countryside in this location. It would thereby conflict with guidance in these policies which together seek to resist development which would have an adverse effect on the character and appearance of the local landscape. It would also conflict with guidance in the Framework, which seeks to recognise the intrinsic character and beauty of the countryside, and which seeks to resist development which fails to improve the character or quality of an area.

*Other Matters*

12. I note the comments of neighbours in relation to potential overlooking, and drainage issues, and the concerns of the Council in relation to noise. These matters could be resolved by appropriate measures secured by reserved matters and relevant conditions and therefore do not weigh against the proposal.
13. The parties dispute whether the Borough has a five year supply of housing land. Based on the information put to me I have no reason to dispute the Council's assertion that a 5 year supply can be demonstrated. Nevertheless, the proposal would provide 5 dwellings, in a location which the parties agree is relatively accessible to services, and which would add to housing supply. Having regard to the impetus for growth in the Framework this weighs in favour of the proposal.
14. Finally, the proposal is described as including an element of affordable housing, at a level in accordance with provision outlined in Policy 15 of the CS. In the light of the recent ruling in the Court of Appeal<sup>1</sup>, in relation to the provision of affordable housing on small sites, the guidance in the Written Ministerial Statement of the 28 November now applies and is a significant material consideration to which I must have regard. The appellant has indicated his willingness to enter into a planning obligation to secure affordable housing, although no such agreement is included with the proposal. Therefore regardless of changes to national policy, as I cannot be assured that the development would deliver any affordable housing, I cannot attribute any weight to the matter. I have therefore not considered it expedient to seek the parties' views on the recent change to national policy, as it would not in any case, alter my overall conclusions.

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<sup>1</sup> Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441 which finds that the policies in the Written Ministerial Statement of the 28 November 2014 as to the specific circumstances where contributions for affordable housing and tariff-style planning obligations should not be sought from small scale and self build development, must once again be treated as a material consideration.

**Conclusion**

15. The proposal would be harmful to the character and appearance of the countryside in this location. The small contribution to housing provision would not outweigh this harm. The development cannot therefore be considered a sustainable form of development. Accordingly, for the reasons outlined above, and having regard to all other matters raised, the appeal is dismissed.

*Anne Jordan*

INSPECTOR

## *Delegated Applications determined between 03/05/2016 and 03/06/2016*

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Ambien</b>					
	16/00210/FUL	PLANNING PERMISSION	05/05/2016	Mr Martin Tomkins	Tithe Farm 12 Wykin Lane Stoke Golding Nuneaton Leicestershire CV13 6HN
				Erection of a barn	
	16/00252/HOU	PLANNING PERMISSION	12/05/2016	Mr Richard Wykes	Glebe Cottage Bosworth Road Sutton Cheney Nuneaton Leicestershire CV13 0AH
				Conversion of conservatory into single storey extension	
	16/00255/TPOCA	PERMIT CONSERVATION AREA TPO WORKS	09/05/2016	Mrs Wynne	The Hall Main Street Sutton Cheney Nuneaton Leicestershire CV13 0AG
				Works to tree - Willow	
	16/00288/HOU	PLANNING PERMISSION	19/05/2016	Mr & Mrs R Lewis	88 Sherwood Road Stoke Golding Nuneaton Leicestershire CV13 6EF
				Rebuilding of detached garage	
	16/00317/FUL	REFUSAL OF PLANNING PERMISSION	02/06/2016	Mr Michael Taberer	48 Roseway Stoke Golding Nuneaton Leicestershire CV13 6HQ
				Proposed dwelling and associated access (revised proposal)	
	16/00396/NOMAT	PERMIT NON MATERIAL AMENDMENTS	02/06/2016	Dadlington Village Hall	Dadlington Village Hall The Green Dadlington Nuneaton Leicestershire CV13 6JB
				Non material amendment to planning permission 13/01073/FUL to amend the south east elevation to add a set of bi-fold doors and roof light	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Barlestone Nailstone And Osbasto</b>					
	15/01157/FUL	PLANNING PERMISSION	01/06/2016	Mr & Mrs M Harris	6 Main Street Nailstone Nuneaton Leicestershire CV13 0QE
				Demolition of outbuilding & erection of new bungalow with associated access and parking	
	16/00258/TPO	APPLICATION WITHDRAWN	19/05/2016	Mrs Mveller	73 Newbold Road Barlestone Nuneaton Leicestershire CV13 0DT
				Felling of 1x lime and crown reduction of 1x horse chestnut and 1x lime	
<b>Barwell</b>					
	15/01291/FUL	PLANNING PERMISSION	27/05/2016	Mr Bhim Kohli	95 Byron Street Barwell Leicester Leicestershire LE9 8FE
				Erection of 1x dwelling	
	16/00233/HOU	PLANNING PERMISSION	03/05/2016	Mr & Mrs A Purser	81 Queensway Barwell Leicester Leicestershire LE9 8AX
				Single storey rear extension	
	16/00261/TPO	PERMIT TREE PRESERVATION ORDER WORKS	11/05/2016	Mr Stephen Phillimore	44 The Drive Barwell Leicester Leicestershire LE9 8LA
				Reduce crown of 1x oak tree by 25%	
	16/00280/HOU	PLANNING PERMISSION	06/05/2016	Mr & Mrs Hewitt	14 Waterfall Way Barwell Leicester Leicestershire LE9 8EH
				Single storey extension to front	
	16/00305/FUL	PLANNING PERMISSION	02/06/2016	Miller Prestige Homes Ltd.	St Christophers Church Hall 22 Moore Road Barwell Leicester Leicestershire LE9 8AF
				Demolition of church hall and erection of 4 dwellings (revised proposal)	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Burbage Sketchley &amp; Stretton</b>					
16/00034/CONDIT	PLANNING PERMISSION	13/05/2016	Mr And Mrs C Kirchin	24A Britannia Road Burbage Hinckley Leicestershire LE10 2HF	Variation of condition 2 of planning permission 14/00115/FUL to alter elevations and footprint of the dwelling and add a detached double garage to plot 2
16/00218/ADV	REFUSAL OF ADVERTISEMENT CONSENT	09/05/2016	Mr Keith Howkins	Land Adjacent Crimson Way Burbage Leicestershire	Display of 1x illuminated advertising panel
16/00282/HOU	PLANNING PERMISSION	18/05/2016	Mr James Tarrant	14 Swains Green Burbage Hinckley Leicestershire LE10 2QX	Single storey rear and front extensions and mono pitch roof to existing front and rear flat roofs
16/00299/HOU	PLANNING PERMISSION	11/05/2016	Mr & Mrs P Jolley	18 Goosehills Road Burbage Hinckley Leicestershire LE10 2RY	First floor rear extension
16/00302/HOU	PLANNING PERMISSION	17/05/2016	Mr Lee Channing	3 Bowman Green Burbage Hinckley Leicestershire LE10 2QY	Two storey side extension and mono pitch roof to existing front flat roof
16/00306/HHGDO	GDO PRIOR APPROVAL NOT REQUIRED	06/05/2016	Mr Michael Garbutt	1 Herald Way Burbage Hinckley Leicestershire LE10 2NX	Rear extension measuring 4.2 metres in depth; 3.6 metres in height to the ridge; and 2.4 metres to the eaves

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Burbage St Catherines &amp; Lash Hill</b>					
	16/00198/HOU	PLANNING PERMISSION	16/05/2016	Mr Stephen Ohri	31 Atkins Way Burbage Leicestershire LE10 2PH
				Rear decking (retrospective)	
	16/00347/HOU	PLANNING PERMISSION	25/05/2016	Mr & Mrs Green	The Gables 19 Elm Tree Drive Burbage Leicestershire LE10 2TX
				Single storey rear extension, insertion of 2 no. dormer windows and roof light	



<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Cadeby Carlton M Bosworth &amp; Sha</b>					
	15/01331/CLUP	CERTIFICATE OF LAWFUL PROPOSED USE	03/06/2016	Sedgemere Developments	Sedgemere Station Road Market Bosworth Nuneaton Leicestershire CV13 0PG
				Certificate of proposed lawful development for the erection of 57 no. dwellings and associated works, conversion of engine shed into visitor centre and formation of 10 no. allotments and ecological mitigation	
	16/00235/FUL	PLANNING PERMISSION	09/05/2016	Mr Louis Massarella	Manor Farm Main Street Cadeby Nuneaton Leicestershire CV13 0AX
				Conversion of building to form dwelling	
	16/00236/LBC	LISTED BUILDING CONSENT	09/05/2016	Mr Louis Massarella	Manor Farm Main Street Cadeby Nuneaton Leicestershire CV13 0AX
				Conversion of building to form dwelling	
	16/00239/HOU	PLANNING PERMISSION	06/05/2016	Mr & Mrs M Kiernan	Fabian House 19 Main Street Barton In The Beans Nuneaton Leicestershire CV13 0DJ
				Single storey side extension	
	16/00264/HOU	PLANNING PERMISSION	13/05/2016	Mr B Lancaster	12 St Catherines Avenue Market Bosworth Nuneaton Leicestershire CV13 0LX
				Single storey extension to rear	
	16/00285/FUL	PLANNING PERMISSION	26/05/2016	Mr C Stamper	The Old Gaol Shenton Lane Market Bosworth Nuneaton Leicestershire CV13 0LA
				Increase width of existing dropped kerb	
	16/00292/CONDIT	PLANNING PERMISSION	20/05/2016	Mr N Salt	116 Station Road Market Bosworth Nuneaton Leicestershire CV13 0NP
				Variation of condition 2 of planning permission 14/00998/FUL to omit the use of a first floor flat roof as a balcony	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Earl Shilton</b>					
	16/00224/CLUP	CERTIFICATE OF LAWFUL PROPOSED USE	09/05/2016	Mr Matthew McMullan	42 The Poplars Earl Shilton Leicester Leicestershire LE9 7ET
				Certificate of proposed lawful development for a single storey rear extension	
	16/00244/HOU	PLANNING PERMISSION	03/06/2016	Dr Malcom Peatfield	Hilltop House 7 High Street Earl Shilton Leicester Leicestershire LE9 7DH
				Erection of annexe with ancillary living accommodation in place of previously approved two storey detached garage and storage building	
<b>Groby</b>					
	16/00109/HOU	PLANNING PERMISSION	12/05/2016	Mr Daniel Cliff	223 Markfield Road Groby Leicester Leicestershire LE6 0FT
				Erection of garage/shed (retrospective) (resubmission)	
	16/00320/HOU	PLANNING PERMISSION	03/06/2016	Ms F Sanders and Dr A Wilkinson	The Lodge Bradgate Hill Groby Leicester Leicestershire LE6 0FA
				Two storey rear and single storey side extension and 2 no. eyebrow dormer windows and 1 no. rooflight	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Hinckley Castle</b>					
	15/00495/FUL	PLANNING PERMISSION	25/05/2016	Mr Ryan Byard	Land Adjacent To 9 Springfield Road Hinckley Leicestershire LE10 1AN
				Demolition of garages and erection of a dwelling	
	15/01121/LBC	LISTED BUILDING CONSENT	18/05/2016	Cancer Research UK	11 Castle Street Hinckley Leicestershire LE10 1DA
				Interior alterations to re-decorate and re-lamp the existing shop	
	16/00093/FUL	PLANNING PERMISSION	01/06/2016	Mr T Payne	7 Stockwell Head Hinckley Leicestershire LE10 1RD
				Conversion of ground floor storage area to 1x flat	
	16/00186/FUL	PLANNING PERMISSION	31/05/2016	Mr F William	44 Mansion Street Hinckley Leicestershire LE10 0AU
				Single storey rear extension with external metal staircase, shopfront and roller shutters with retention of existing first floor flat	
	16/00230/FUL	PLANNING PERMISSION	05/05/2016	National Grid Property Ltd	National Grid Brick Kiln Street Hinckley Leicestershire
				Three storey extension to include staircase and lift	
	16/00253/OUT	OUTLINE PLANNING PERMISSION	25/05/2016	Mr Andrew Connor	50 Rugby Road Hinckley Leicestershire LE10 0QD
				Erection of up to 4 flats (outline - access only)	
	16/00262/COGDO	PRIOR APPROVAL GIVEN	16/05/2016	Mr J A Searle	The Mead House Hill Street Hinckley Leicestershire LE10 1DS
				Prior notification for change of use from office (B1a) to 1 dwelling (C3)	
	16/00267/ADV	ADVERTISEMENT CONSENT	19/05/2016	Hinckley Mortgage Centre Ltd	94 Castle Street Hinckley Leicestershire LE10 1DD
				Display of 1x illuminated fascia sign and 1x illuminated projecting sign	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
	16/00350/FUL	PLANNING PERMISSION	02/06/2016	Priory Group	39 - 41 Station Road Hinckley Leicestershire LE10 1AP
Change of use from office (Use Class B1) to education use (Use Class D1)					
<b>Hinckley Clarendon</b>					
	16/00243/FUL	REFUSAL OF PLANNING PERMISSION	09/05/2016	Mr David Rogerson	5 Walcote Close Hinckley Leicestershire LE10 0YF
Erection of one dwelling					
	16/00296/CLUP	CERTIFICATE OF LAWFUL PROPOSED USE	06/05/2016	Mrs Lynn Harper	1 Oban Road Hinckley Leicestershire LE10 0LL
Certificate of proposed lawful development for the erection of a detached garage to the side of the property and formation of dropped kerb					
	16/00322/HOU	PLANNING PERMISSION	03/06/2016	Mr Karl Hopkins	1 Bosworth Close Hinckley Leicestershire LE10 0XW
Single storey rear extension and pitched roof to existing flat roof					

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Hinckley DeMontfort</b>					
	15/00942/FUL	PLANNING PERMISSION	19/05/2016	Mr Balbir Sandhar	Former Police Station Upper Bond Street Hinckley Leicestershire LE10 1RJ
				Change of use from Police Station to 30 residential apartments	
	15/00958/FUL	PLANNING PERMISSION	25/05/2016	Ms Jane Matthews	25 Woodland Road Hinckley Leicestershire LE10 1JF
				Demolition of garage and erection of dwelling	
	16/00084/FUL	PLANNING PERMISSION	18/05/2016	Mr Shaun Chawla	27 Upper Bond Street Hinckley Leicestershire LE10 1WA
				Formation of two flats (retrospective)	
	16/00249/HOU	PLANNING PERMISSION	25/05/2016	Ms Karan Mason	15 And 17 Charles Street Hinckley Leicestershire LE10 1PT
				External wall insulation to all external elevations	
	16/00279/HOU	PLANNING PERMISSION	25/05/2016	Mr Scot Oakley	9 Bowling Green Road Hinckley Leicestershire LE10 1EX
				First floor side extension	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Hinckley Trinity</b>					
	16/00191/HOU	REFUSAL OF PLANNING PERMISSION	06/05/2016	Mr Colin Varney	1 Cumbrae Drive Hinckley Leicestershire LE10 0SL
				Extension to rear garden area and erection of fence	
	16/00263/HOU	PLANNING PERMISSION	13/05/2016	Mr & Mrs P Carter	9 Clivesway Hinckley Leicestershire LE10 0EU
				Single storey side extension	
	16/00290/HOU	PLANNING PERMISSION	11/05/2016	Mrs Elaine Woodbridge	36 Clivesway Hinckley Leicestershire LE10 0EU
				Single storey side extension, loft conversion and insertion of dormer window to rear	
	16/00378/HOU	PLANNING PERMISSION	03/06/2016	Mr Hanson	9 Ferness Close Hinckley Leicestershire LE10 0SF
				Single storey front extension	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Markfield Stanton &amp; Fieldhead</b>					
	15/00167/FUL	REFUSAL OF PLANNING PERMISSION	13/05/2016	Ms F Partridge	218 Leicester Road Field Head Markfield Leicestershire LE67 9RF
				Demolition of garage, subdivision of plot and erection of a dwelling with associated access	
	15/00983/FUL	PLANNING PERMISSION	24/05/2016	Ms Z King	95 Main Street Markfield Leicestershire LE67 9UT
				Proposed new self-contained flat (revised proposal)	
	15/01334/FUL	PLANNING PERMISSION	05/05/2016	Greygates Ltd.	94 Oakfield Avenue Markfield Leicestershire LE67 9WG
				Erection of 2x dwellings	
	16/00208/FUL	PLANNING PERMISSION	20/05/2016	Mr Hamir Modhvadia	90 Main Street Markfield Leicestershire LE67 9UU
				Change of use of first floor from storage (B8) to 1 No. dwelling (C3)	
	16/00286/TPO	PERMIT TREE PRESERVATION ORDER WORKS	20/05/2016	Mr Lloyd Baines	Wood Farm Stanton Lane Ellistown Coalville Leicestershire LE67 1FF
				Works to woodland Ref W4	
	16/00287/FUL	PLANNING PERMISSION	27/05/2016	Mathew Smith	Saunt Bros Transport Broad Lane Stanton Under Bardon Markfield Leicestershire LE67 9TB
				Single storey extension to workshop/storage area	
	16/00309/HOU	PLANNING PERMISSION	17/05/2016	Mr Harold Barnett	30 Janes Way Markfield Leicestershire LE67 9SW
				Demolition of existing detached garage and single storey front and side extension	
	16/00316/TPO	PERMIT TREE PRESERVATION ORDER WORKS	03/06/2016	Mark Whitehead Tree Services Ltd	78 Main Street Markfield Leicestershire LE67 9UU
				Crown reduction of Ash tree	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
	16/00340/NOMAT	PERMIT NON MATERIAL AMENDMENTS	06/05/2016	Mr Oliver Haller	Land East Of Thornton Lane Stanton Under Bardon Leicestershire
				Non-material amendment to planning permission 15/00645/FUL to alter dimensions and layout of panels, alter the location of the transformer station, add a construction road to the centre of the site and addition of a substation	
	16/00360/TPOCA	TPO SPLIT DECISION PERMIT/REF	12/05/2016	Mr Douglas Phillips	29 Forest Road Markfield Leicestershire LE67 9UN
				Work to trees	



<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Newbold Verdon With Desford &amp; P</b>					
15/01134/FUL	PLANNING PERMISSION	03/05/2016	Mr N Foulds	Hill Farm Markfield Lane Botcheston Leicester Leicestershire LE9 9FH	Demolition of farm buildings, change of use of land and erection of four light industrial business units (Use Class B1(c))
16/00049/FUL	PLANNING PERMISSION	13/05/2016	Fairfield Properties (Bucks.) Ltd.	Land Adjacent To 20 Lindridge Lane Desford Leicester Leicestershire LE9 9GN	Erection of 2 dwellings
16/00200/HOU	PLANNING PERMISSION	09/05/2016	Mrs Valerie Wykes	Barncroft Dadlington Lane Stapleton Leicester Leicestershire LE9 8JL	Single storey front extension
16/00291/HOU	PLANNING PERMISSION	16/05/2016	Mr & Mrs Giulianotti	The Bungalow Bosworth Road Kirkby Mallory Leicester Leicestershire LE9 7QN	Roof extension and two storey extension and first floor balcony
16/00297/HOU	PLANNING PERMISSION	25/05/2016	Mrs Nind	1 Mallory Close Newbold Verdon Leicester Leicestershire LE9 9LR	Single storey side extension
16/00310/NOMAT	PERMIT NON MATERIAL AMENDMENTS	06/05/2016	Mr Jason Peutrill	12 Parkstone Road Desford Leicester Leicestershire LE9 9HY	Non-material amendment to planning permission 16/00026/HOU to add 4 no. velux windows to rear extension and 1 no. flat roof light to porch

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Ratby Bagworth And Thornton</b>					
	15/00824/COU	PLANNING PERMISSION	25/05/2016	Mr David White	32 - 34 Main Street Ratby Leicester Leicestershire LE6 0LL
				Change of use of first floor retail (Use class A1) to residential (Use class C3)	
	16/00085/FUL	REFUSAL OF PLANNING PERMISSION	09/05/2016	Mr John Biddle	Tara Barlestone Road Bagworth Coalville Leicestershire LE67 1DD
				Temporary planning permission for the parking of vehicles (2 years) (retrospective)	
	16/00172/HOU	PLANNING PERMISSION	12/05/2016	Mr & Mrs A Lewin	1 Gillbank Drive Ratby Leicester Leicestershire LE6 0NH
				Two storey side extension	
	16/00215/CLUP	CERTIFICATE OF LAWFUL PROPOSED USE	09/05/2016	Mr Vincent Gouder	Whittington Rough Farm Markfield Road Ratby Leicester Leicestershire LE6 0LU
				Insulate the outside walls with silicone render finish on three walls	
	16/00220/FUL	PLANNING PERMISSION	27/05/2016	Mr Mike Watts	Holywell Farm Desford Lane Ratby Leicester Leicestershire LE6 0LE
				Temporary siting of mobile home unit to be removed upon first occupation of previously approved barn conversion	
	16/00232/CONDIT	PLANNING PERMISSION	11/05/2016	Leicestershire County Council	Ratby County Primary School Main Street Ratby Leicester Leicestershire LE6 0LN
				Variation of condition 2 of planning permission 15/01277/FUL to add external windows to rear elevation and internal changes	
	16/00250/HOU	PLANNING PERMISSION	12/05/2016	Mr Liam Doherty	201 Main Street Thornton Coalville Leicestershire LE67 1AH
				Raising of roof and two storey rear extension	
	16/00289/HOU	PLANNING PERMISSION	16/05/2016	Mr Butler	Whittington Edge Markfield Road Ratby Leicester Leicestershire LE6 0LU
				Two storey side, front and rear extension and erection of 2.4 metre fence to north eastern and south western boundaries	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
<b>Twycross Sheepy &amp; Witherley</b>					
16/00002/OUT	OUTLINE PLANNING PERMISSION	27/05/2016	Carlton Select Homes	4 George Fox Lane Fenny Drayton Nuneaton Leicestershire CV13 6BE	Demolition of existing dwelling and erection of two dwellings (outline - access, layout and scale)
16/00276/FUL	PLANNING PERMISSION	26/05/2016	Ms Claire Oldham	Twycross Zoological Park Burton Road Norton Juxta Twycross Atherstone Leicestershire CV9 3PX	Erection of a catering lodge

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## PLANNING COMMITTEE – 21 JUNE 2016

### REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION) PLANNING ENFORCEMENT UPDATE



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

### WARDS AFFECTED: ALL WARDS

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#### **1. PURPOSE OF REPORT**

- 1.1 To provide an update to Members on the number of active and closed enforcement cases within the borough.
- 1.2 To provide an update on the current work load that is being handled and managed by the team.
- 1.3 To provide an overview of the performance of the compliance, monitoring and enforcement function within the planning and development management service area.

#### **2. RECOMMENDATION**

That the report be noted.

#### **3. PLANNING ENFORCEMENT CASE UPDATE**

##### Good Friday Caravan Site

- 3.1 Following the appeal of the enforcement notice to cease the use of the land for the purpose of a caravan site the owners of the site appealed against the Secretary of State's decision to dismiss the appeal in regard to the enforcement notice. Following an appeal to the High Court, the judge determined on the 15 July 2015 that the enforcement notice stands. Therefore, the occupiers of the Good Friday site have to vacate the site by 15 January 2017 and reinstate the land by 15 April 2017. If this is not adhered to the Council has the option to prosecute for failing to comply with an Enforcement Notice or to take direct action.

##### Land North West of Cold Comfort Farm, Rogues Lane, Hinckley

- 3.2 At the beginning of July 2015 it was reported to the Council that an unauthorised gypsy and traveller incursion had taken place on the land. A Temporary Stop Notice was served requiring occupation of the site to cease within 28 days. In addition to this, a formal injunction was also sought and granted from the County Court to prevent any further incursion onto the rest of the land. Following on from this the Council has now served a full Stop Notice and an Enforcement Notice to remove the caravans from the site. The Council returned to court to seek a further injunction to remediate the breach of planning control. However the Court only granted a further interim Injunction until a decision has been made on the enforcement notice. The owner has appealed the enforcement notice and this is now being determined by informal hearing. The Informal Hearing is due to be heard on the 7 June 2016, a further update will be provided once the Inspector has provided his response.

Newton Linford Lane, Groby (Known as Klondyke)

- 3.3 On the 7 September 2015, the owner of a piece of land within “Klondyke” submitted an “Application for a certificate of lawful existing use for a dwelling”. The application seeks to establish the use of an area within the site as a residential dwelling; the applicant was claiming that the site has been used as a permanent residential dwelling since 1985. This site is particularly well known to the Council and there is an extensive enforcement history on the whole of the site, with previous enforcement notices and Injunctions sought on the land. Based on the evidence provided by the applicant the Council refused the application and subsequently an enforcement notice was served on the 7 January 2016, stating that the dwelling had to be removed. Following the service of an enforcement notice, the applicant has appealed the notice and has been listed for a Public Inquiry between the 18 and 20 October 2016.

Section 124(1) of the Localism Act 2011 inserted new sections into the Town and Country Planning Act 1990 (as amended) to allow enforcement action to be taken in England against a breach of planning control when the time limits for taking enforcement action have expired and the breach has been concealed. Following a number of site visits by the Council, the local authority believes that the dwelling has deliberately been concealed by a person with a view to obtaining a certificate of lawful use.

There have been a number of high profile court cases where owners have sought to deceive the local planning authority in their initial application for planning permission or have concealed the development and then sought to argue that the local planning authority is out of time for taking enforcement action. Where it appears to the local planning authority that there may have been a breach of planning control in its area it may apply to a magistrates court for a planning enforcement order. If the Court makes such an order then the local planning authority may take enforcement action in respect of the apparent breach at any time within a period of one year and 22 days of the making of the order. Following the submission by the Council of a claim for a Planning Enforcement Order, the applicant has appealed against the claim on the basis that concealment has not occurred. The hearing of the case is due to be heard at Leicester Magistrates Court on the 7 October 2016.

Dagleys Farm, Earl Shilton

- 3.4 On the 3 August 2012, the Planning Inspectorate granted planning permission for the change of use of the land from use as agricultural land to a mixed use as agricultural land and residential use, and the siting of a twin unit mobile home for residential use but only on a three year temporary basis. This time period passed and the unit was still present and an enforcement notice was therefore issued for its removal. No appeal was lodged and the unit has to be removed by the 11 June 2016.

231 Shaw Lane, Markfield

- 3.5 On the 7 January 2016, the Council issued the owner of a property with an enforcement notice for the use of the land for a dog breeding establishment and the keeping of dogs. The owner appealed the decision and the Planning Inspectorate dismissed the appeal on the 25 April 2016 giving the owner three months to cease the change of use. Therefore all the dogs at the property need to be removed by the 25 July 2016.

Chequers Inn, Burbage

- 3.6 On the 21 January 2016, the Council issued the owner of the premises with an enforcement notice in relation to the erection of three wooden posts to the front of the premises. The notice was not appealed and the enforcement notice was complied with.

23 Station Road, Ratby

- 3.7 An enforcement notice was served at 23 Station Road, Ratby in regard to the unauthorised change of use from a restaurant to a hot food take away. The owners appealed the Enforcement Notice and the Council submitted a written statement to the Planning Inspectorate. Following the appeal the Planning Inspectorate granted planning permission for the take away.

Ellis Taylor, Leicester Road, Hinckley

- 3.8 Two Enforcement Notices were served, one in regard to the creation of hard standing for the parking of non-agricultural vehicles. The second Enforcement Notice served on the site was in regard to the change of use of land from agricultural use to the storage of non-agricultural waste and equipment.

An appeal was made and an Informal Hearing took place on the 29 September 2015. The Inspector's decision was received on the 2 October 2015 which dismissed the two appeals. Therefore the whole site should be cleared by the 2 May 2016. The two enforcement notices have not been complied with and the Council are now taking prosecution action against the owner for failing to comply with the notices.

1 Temple Hall Farm Cottages, Wellsborough

- 3.9 On the 17 September 2015 the Council attended Leicester Magistrates Court for a first hearing in regard to a prosecution for failing to comply with an Enforcement Notice. The breach of planning control was in regard to the construction of a two storey rear extension without planning permission following authorisation from Planning Committee to take enforcement action to remediate the breach.

At the hearing the owners pleaded guilty to the offence and were ordered to pay a fine of £2,424.00 which included all the Council's legal costs. Following a successful prosecution, the applicant has now re submitted a further planning application in an attempt to regularise the matter, a decision has yet to be issued but discussions are being held with the owner to find a resolution to the matter.

The Stables, Mill Lane, Witherley

- 3.10 At the beginning of July 2015 it was reported to the Council that an additional storey was being added to a property without any formal planning approval. The Council issued the owner with a Temporary Stop Notice which ceased all works on site for 28 days. Following ongoing discussions, a further planning application was submitted to regularise the matter. The application is still pending consideration by the Local Planning Authority.

S215 – Untidy Land Notices

- 3.11 Within the period from 1 January 2016 to the 31 May 2016 the Local Planning Authority were made aware of 9 untidy properties. The premises on the corner of

Glebe Road and Forest Road had rubble to the front of the premises; after serving the owner with a notice the premises were tidied to an acceptable standard.

Out of the other untidy properties 6 cases were closed off as these properties were not affecting the public amenity of the area, the other two are still under investigation with on going discussions being held with the owners to resolve the situation.

The team are still working on a number of other untidy property cases within the borough and hope to provide more updates in the future where successful action has been taken to restore land to an acceptable visual standard in the future.

#### **4.0 WORKLOAD & PERFORMANCE**

4.1 The following tables below show the current work load the team is managing in respect of current enforcement investigations. Table 1 demonstrates the number of cases that have been opened within that period and how many cases have been closed. This table demonstrates the number of cases that the team is managing. The team ensures that enforcement cases are closed off as expediently as possible. Table 2 shows in more detail how the cases were closed. This table demonstrates that the majority of cases that the team have closed are either through negotiation, or by retrospective planning applications being received. As of the 3 June 2016 there are 208 enforcement cases; however a number of these are currently dormant i.e. awaiting further information or subject to ongoing monitoring to collate evidence. The team is taking a proactive approach to ensuring cases are resolved and closed as promptly as possible.

*Table 1: Number of Enforcement cases opened and closed*

<b>Period of time</b>	<b>Number of cases opened</b>	<b>Number of cases closed</b>
1 April 2016 to 3 June 2016	53	57
1 January 2016 to 31 March 2016	76	64
1 October 2015 to 30 December 2015	67	58

*Table 2: How the enforcement cases were closed*

<b>Period of time</b>	<b>Total Cases closed</b>	<b>Case closed by resolving breach</b>	<b>Case closed by not being a breach</b>	<b>Cases closed by being Permitted Development</b>
1 April 2016 to 3 June 2016	57	18	36	3
1 January 2016 to 31 March 2016	64	27	31	6
1 October 2015 to 30 December 2015	58	31	21	6



4.2 On the 9 March 2016, Council approved an updated Planning Enforcement Protocol as set out in Appendix 1. The Planning Enforcement Protocol has been updated to be in accordance with the NPPF and to also set out how the Council will proactively manage enforcement issues within the borough by monitoring the implementation of planning permissions and ensuring conditions are fully complied with. As part of a review of the protocol, in order to be more proactive in our investigations, time scales for carrying out a site visit in response to an alleged breach have been reviewed. The previous protocol set out that a site visit would be undertaken within 15 working days. This target time has been shortened to ensure visits are done within 7 working days. Currently the enforcement team are hitting this target at 100%. The second performance indicator is in regard to acknowledging complainants within 3 working days and this target is being met at 100%.

**5. FINANCIAL IMPLICATIONS [TF]**

5.1 Currently a cost of £11,268 has been incurred for the Newton Linford Lane, Groby appeal. This and any other costs for appeals will be met from within existing budgets.

**6. LEGAL IMPLICATIONS LEGAL IMPLICATIONS [MR]**

6.1 None

**7. CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 1 of the Corporate Plan

- Creating a vibrant place to work and live.

**8. CONSULTATION**

None

**9. RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None	None	

**10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

This report is for information purposes to update Members on the progress of recent enforcement cases. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

**11. CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
  - Environmental implications
  - ICT implications
  - Asset Management implications
  - Human Resources implications
  - Voluntary Sector
- 

Contact Officer: Craig Allison, Planning Enforcement Officer ext. 5700

Executive Member: Cllr Stan Rooney