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Chief Executive

Date: 15 July 2019



**Hinckley & Bosworth
Borough Council**

To: Members of the Planning Committee

Mrs MJ Crooks (Chairman)	Mr A Furlong
Mr DJ Findlay (Vice-Chairman)	Mr SM Gibbens
Mrs CM Allen	Mr E Hollick
Mr RG Allen	Mr KWP Lynch
Mr CW Boothby	Mrs LJ Mullaney
Mr MB Cartwright	Mr RB Roberts
Mr DS Cope	Mrs H Smith
Mr WJ Crooks	Mr BR Walker
Mr REH Flemming	

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, 23 JULY 2019** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

Rebecca Owen
Democratic Services Manager

Fire Evacuation Procedures

Council Chamber (De Montfort Suite)

- On hearing the fire alarm, leave the building **at once** quickly and calmly by the nearest escape route (indicated by green signs).
- *There are two escape routes from the Council Chamber – at the side and rear. Leave via the door closest to you.*
- Proceed to **Willowbank Road car park**, accessed from Rugby Road then Willowbank Road.
- **Do not** use the lifts.
- **Do not** stop to collect belongings.

Abusive or aggressive behaviour

We are aware that planning applications may be controversial and emotive for those affected by the decisions made by the committee. All persons present are reminded that the council will not tolerate abusive or aggressive behaviour towards staff, councillors or other visitors and anyone behaving inappropriately will be required to leave the meeting and the building.

Recording of meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, the press and public are permitted to film and report the proceedings of public meetings. If you wish to film the meeting or any part of it, please contact Democratic Services on 01455 255879 or email rebecca.owen@hinckley-bosworth.gov.uk to make arrangements so we can ensure you are seated in a suitable position.

Members of the public, members of the press and councillors are hereby informed that, in attending the meeting, you may be captured on film. If you have a particular problem with this, please contact us using the above contact details so we can discuss how we may accommodate you at the meeting.

PLANNING COMMITTEE - 23 JULY 2019

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 2)

To confirm the minutes of the meeting held on 25 June 2019.

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 12.

6. DECISIONS DELEGATED AT PREVIOUS MEETING

To report progress on any decisions delegated at the previous meeting.

7. 18/01252/OUT - LAND EAST OF PECKLETON LANE, DESFORD (Pages 3 - 30)

Application for residential development up to 80 dwellings with associated works (Outline - access only).

8. 19/00149/OUT - LAND OPPOSITE BOSWORTH COLLEGE, LEICESTER LANE, DESFORD (Pages 31 - 34)

Application for residential development of up to 80 dwellings and associated works (Outline- access only).

9. 19/00452/FUL - 83-103 CHURCH STREET, BURBAGE (Pages 35 - 46)

Application for change of use of part of existing retail unit to drinking establishment (Use Class A4).

10. 19/00611/HOU - 120 HINCKLEY ROAD, EARL SHILTON (Pages 47 - 52)

Application for detached garage.

11. APPEALS PROGRESS (Pages 53 - 56)

To report on progress relating to various appeals.

12. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

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HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

25 JUNE 2019 AT 6.30 PM

PRESENT: Mrs MJ Crooks - Chairman
Mr DJ Findlay – Vice-Chairman
Mrs CM Allen, Mr RG Allen, Mr CW Boothby, Mr SL Bray (for Mr KWP Lynch),
Mr MB Cartwright, Mr DS Cope, Mr WJ Crooks, Mr REH Flemming, Mr A Furlong,
Mr SM Gibbens, Mr E Hollick, Mrs LJ Mullaney, Mr RB Roberts, Mrs H Smith and
Mr BR Walker

Also in attendance: Councillor DC Bill MBE and Councillor R Webber-Jones

Officers in attendance: Jenny Brader, Helen Knott, Rebecca Owen, Michael Rice and
Nicola Smith

46 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Lynch with the substitution
of Councillor Bray authorised in accordance with council procedure rule 10.

47 MINUTES

It was moved by Councillor B Crooks, seconded by Councillor Cartwright and

RESOLVED – the minutes of the meeting held on 28 May be confirmed
and signed by the chairman.

48 DECLARATIONS OF INTEREST

No interests were declared at this stage.

49 PLANNING ENFORCEMENT UPDATE

The committee received an update on enforcement cases. It was moved by Councillor
Cartwright, seconded by Councillor Boothby and

RESOLVED – the report be noted.

50 APPEALS PROGRESS

Members received an update on progress in relation to appeals. It was moved by
Councillor Cartwright, seconded by Councillor R Allen and

RESOLVED – the report be noted.

51 18/01252/OUT - LAND EAST OF PECKLETON LANE, DESFORD

Application for residential development up to 80 dwellings with associated works (outline
– access only)

Notwithstanding the officer's recommendation that permission be granted, it was moved
by Councillor Bray and seconded by Councillor R Allen that members be minded to
refuse permission due to the harm to the countryside outside of the settlement boundary,

contrary to policy DM4, which demonstrably and significantly outweighs the benefits of the scheme. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – members be minded to refuse permission and the application be brought back to a future meeting.

52 19/00149/OUT - LAND OPPOSITE BOSWORTH COLLEGE, LEICESTER LANE, DESFORD

Application for residential development of up to 80 dwellings and associated works (outline – access only).

Notwithstanding the officer's recommendation that permission be granted, it was moved by Councillor R Allen and seconded by Councillor Boothby that members be minded to refuse permission due to being outside of the settlement boundary and the harm to the countryside, contrary to policy DM4, outweighing the benefits of development. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – members be minded to refuse permission and the application be brought back to a future meeting.

53 19/00413/FUL - 339 RUGBY ROAD, BURBAGE

Application for demolition of existing dwelling and the erection of a replacement detached dwelling and detached double garage (revised scheme)

Whilst generally in support of the application, some members expressed concern that any additional development on site would constitute overdevelopment and requested that permitted development rights be removed. It was moved by Councillor J Crooks, seconded by Councillor R Allen and

RESOLVED –

- (i) Permission be granted subject to the conditions contained in the officer's report and late items and an additional condition removing permitted development rights Schedule 2, Part 1 classes A to E;
- (ii) The Interim Head of Planning be given delegated powers to determine the final detail of planning conditions.

54 DECISIONS DELEGATED AT PREVIOUS MEETING

Members were updated on decisions delegated at the previous meeting.

(The Meeting closed at 8.20 pm)

CHAIRMAN

land and gave substantial weight to the provision of new housing (paragraph 29 of the decision). The inspector concluded:

'There is an agreed significant shortfall in housing land supply. The homes would be located in an accessible location and would bring economic and other benefits. To be weighed against that is the harm that I have found in relation to the character and appearance of the area and to the role and function of the Green Wedge. In my view, that harm would be limited in the wider context and would not outweigh the significant benefits of the proposal, let alone significantly and demonstrably outweigh them when assessed against the Framework as a whole. In these circumstances, I consider that the appeal scheme would comprise sustainable development and the presumption in favour of such, as set out in the Framework, and the development plan, applies. That is a significant material consideration that outweighs any conflict with some elements of the development plan. Therefore, for the reasons set out above, I conclude on balance that the appeal should succeed.' (Paragraph 54 of the decision)

4. This appeal is a material consideration when weighing the merits of this planning proposal, it identifies the weight to be given to the provision of housing in the Borough as substantial and any harm identified must be significant and demonstrable to outweigh this benefit.
5. The application proposal has not been altered. The recommendations to Planning Committee do not alter from those identified in the previous report to committee and the proposal is considered acceptable in planning terms and recommended for approval subject to the conditions contained in the previous report attached at Appendix A.

APPENDIX A

Planning Committee June 25th 2019
Report of the Interim Head of Planning

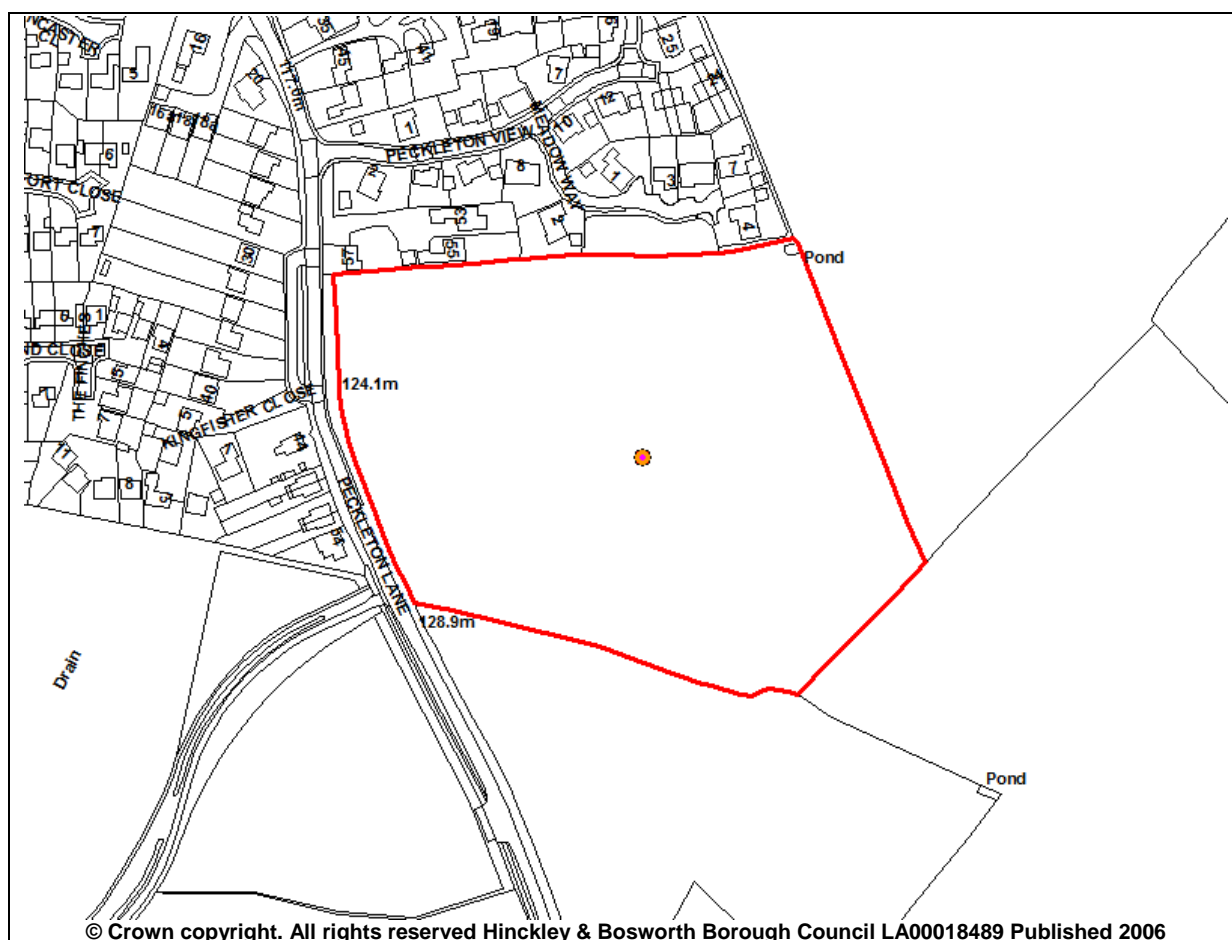
Planning Ref: 18/01252/OUT
Applicant: Richard West
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Land East Of Peckleton Lane Desford

Proposal: Residential development up to 80 dwellings with associated works
(Outline - access only)



1. Recommendations

1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - 40% of the total number of dwellings shall be affordable units and shall be delivered on-site with a mix of 75% social or affordable rent and 25% intermediate tenure and a mix of:
 - 1 bed, 2 person dwellings – 25%
 - 2 bed, 4 person dwellings – 34.5%
 - 3 bed, 5 person dwellings – 34.5%
 - 4 bed, 6 person dwellings – 6%

- On-site Play and Open Space Scheme, Provision and Maintenance.
 - Off-site Play and Open Space Provision and Maintenance.
 - Education Contribution of £227,635.29 towards the improvement, remodelling or enhancement of the existing facilities at Desford Community Primary School or any other school within the educational catchment area of the development.
 - Education Contribution of £260,901.00 towards the improvement, remodelling or enhancement of the existing facilities at Bosworth Academy or any other school within the educational catchment area of the development.
 - Health Care Contribution of £52,380.00 towards additional health care services at either Ratby Surgery or Desford Surgery.
 - Planning conditions outlined at the end of this report.
- 1.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.
 - 1.3. That the Interim Head of Planning be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.
- 2. Planning Application Description**
- 2.1. This application seeks outline planning permission, with access only to be determined at this stage, for the erection of up to 80 dwellings on this site which has an area of approximately 3.76 hectares. A detailed access plan has been submitted which shows a new road off Peckleton Lane in the location of an existing field gate.
 - 2.2. An indicative only masterplan layout accompanies the application and shows the layout of up to 80 dwellings. An area of open space is proposed around the perimeter of the site and along the public footpath which forms the southern boundary of the site. An attenuation pond would also be included in this open space.
 - 2.3. The proposal includes the construction of a public footpath along the eastern side of Peckleton Lane linking the proposed vehicular access to the existing footpath into the centre of Desford
 - 2.4. The application is supported by the following technical documents:-
 - Design and Access Statement
 - Drainage Strategy
 - Arboricultural Impact Assessment
 - Topographical Survey
 - Transport Assessment
 - Travel Plan
 - Planning Statement
 - Statement of Community Involvement
 - Landscape and Visual Impact
 - Landscape Strategy
 - Heritage Desk Based Assessment
 - Geophysical Survey Report
 - Ecology Report
 - Drainage Strategy
 - Flood Risk Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site is located in the countryside adjacent to, but outside of, the settlement boundary of Desford and east of Peckleton Lane. Residential development forms its northern and western boundaries and open fields form the eastern and southern boundaries.
- 3.2. Comprising of a single pasture field, the site has well defined hedgerow boundaries which include trees. The site frontage currently comprises of a mature hedgerow providing a natural screen to the proposed site. As part of the proposed development a section of this hedgerow would have to be cleared to improve the current vehicular access into the site.
- 3.3. The site is in an agricultural use and has a varied topography with a plateau in the south west corner of the site. The defined settlement boundary of Desford forms the northern and western boundaries of the site and the application site and proposed access are located outside of the settlement boundary. Sporting facilities and employment uses lie further to the south and south west of the site. These forms of development along Peckleton Lane give the area its verdant semi-rural character.

4. Relevant Planning History

None

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. Objection letters have been submitted from 97 households raising the following issues:
- This site is located in a high trafficked area especially with the shift patterns of Caterpillar and Neovia;
 - The proposed access would be unsafe and is sited near to a bend on a hill. There have been accidents near to this access;
 - Although Peckleton Lane has a 7.5 tonne weight limit, HGVs still use it which causes congestion;
 - The junction with High Street is already congested and this would add more traffic;
 - The proposed houses are too close to Peckleton Lane and so an out of control vehicle could collide into a house;
 - There was a fatality along Peckleton Lane in 1987;
 - The houses would be on higher ground and would tower over existing properties;
 - The doctors, dentists, shops, schools, public houses and postal service are already operating above capacity and cannot cope with any additional residents;
 - The healthcare planning contribution should be directed towards improvements to Desford Medical Centre which has seen a large influx of patients wanting to register;
 - There is a nursery close by and school children walk along Peckleton Lane so development of this site would cause pedestrian safety issues from crossing over the road;

- This site is not the preferred housing site in the Desford Neighbourhood Plan and a decision should be deferred until residents have considered the Neighbourhood Plan;
- Barnes Lane is the preferred housing site and it is close to the school and residents would not need to go through High Street and the village;
- Cycling along Peckleton Lane is already unsafe;
- There will be no benefit for Desford from this additional housing which would equate to half of the houses needed for Desford;
- Development on this site would reduce the amount of green space in the area and impact on ecology. This land is Green Belt land;
- Development on this site would block any future plans for the future Desford Western bypass;
- Section 106 money should be secured for the new bypass along with at least 22 metres of access;
- There would be noise from construction traffic and loss of views from the buildings;
- There are health issues on site from dog excrement on the public footpath;
- There will be a loss of agricultural land and plants;
- The construction traffic will cause vibrations to the buildings in the Conservation Area.

5.3. Letters of support have been submitted from 4 households raising the following issues:

- The alternative site on Barnes Way would have more of a detrimental impact;
- This proposed site is more central and will have less impact on the environment;
- Is the Barnes Way site the preferred site as less votes would be lost as there is a higher population around the Peckleton Lane area?
- This housing is needed especially shared ownership for young locals and affordable housing;
- The local Parish Council is canvassing for people to object to this proposal.
- Young people in the village need these houses;
- The Parish Council has failed to get the Neighbourhood Plan made in time so no viable alternative sites.
- There is a need for more funding for the primary school to expand;
- There is a lot of support in Desford for the proposal.

6. Consultation

6.1. No objections some subject to conditions have been received from:

Severn Trent Water Ltd

HBBC Waste Services

- Leicestershire Police
- LCC Lead Flood Authority
- LCC Ecology

- LCC Public Rights of Way
 - LCC Developer Contributions
 - HBBC Environmental Services (Pollution)
- 6.2. No comments have been received from:
LCC Archaeology
Cycling UK
Ramblers Association
- 6.3. Desford Parish Council objects to the proposal for the following reasons:
- This proposal would increase car parking in the village centre;
 - There are highway safety issues with the access located on the brow of a hill;
 - The proposal would increase traffic generation outside of the primary school;
 - There will be vibrations from additional traffic which will affect the buildings in the Conservation Area;
 - Desford has more housing than is needed;
 - This site is not in the top 3 of preferred sites in the Draft Neighbourhood Plan and this needs to be considered;
 - The site lies outside of the settlement boundary.
- 7. Policy**
- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres relating to Leicester
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 17: Rural Needs
 - Policy 19: Green Space and Play Provision
 - Policy 20: Green Infrastructure
- 7.2. Site Allocations and Development Management Policies DPD (2016) (SADMP)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. Desford Neighbourhood Development Plan Pre-submission (November 2018)
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2018)
 - Planning Practice Guidance (PPG)
 - Community Infrastructure Levy (CIL) Regulations (2010)

7.5. Other relevant guidance

- Landscape Character Assessment (2017)
- Landscape Sensitivity Assessment (2017)
- Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA) (2017)
- Affordable Housing SPD (2011)
- Open Space and Recreation Study (2016)
- Leicestershire Highways Design Guide

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the countryside and the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flooding/Drainage
- Ecology
- Affordable Housing and Housing Mix and Density
- Infrastructure Contributions
- Other Issues

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.4. The relevant development plan documents in this instance consist of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).
- 8.5. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Policy 8 of the Core Strategy identifies Desford as a key rural centre which supports local services. The development of a minimum of 110 homes is supported within the settlement boundary in Policy 8.
- 8.6. The housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure identified in the Governments Housing Delivery Test and the Council is unable to demonstrate a 5 year housing land supply. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless any adverse impacts would significantly and

demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 8.7. The site is situated outside the defined settlement boundary of Desford which forms the northern and western boundaries of the application site. Policy DM4 of the SADMP is therefore applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development;
- 8.8. The site does not fall under any of the categories identified in DM4 as sustainable development and so there is a clear conflict between the proposed development and the policy. This issue will need to be carefully weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case.
- 8.9. Many of the objections received relate to the fact that the application site is not the preferred site for housing in the Emerging Desford Neighbourhood Plan (DNP). The Borough Council is actively promoting the preparation of Neighbourhood Development Plans and is keen to see communities strongly involved in the planning and future growth of villages. The site that the DNP at policy H2 proposes to allocate is the Barns Way site and this is the site which the Parish Council concludes is the least damaging and most sustainable from those sites included in the Site Assessment Summary for the SHLEAA relating to Desford. The application site is included in this Site Assessment Summary.
- 8.10. The DNP is not yet made and so the advice at paragraph 14 of the Framework is not applicable. However, the DNP is a material consideration in this decision making process and the weight to be given to it is set out in paragraph 48 of the Framework. Factors to be considered to the weight to be given to the DNP include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, decision makers should respect evidence of local support prior to the referendum. The consultation responses submitted with the draft neighbourhood plan do not indicate strong evidence of community support for the DNP allocation at Barns Way.
- 8.11. There is also a requirement for the DNP to complete a SEA to confirm the appropriateness of the amount and location of development proposed. Therefore, although the application site is not the preferred site in the DNP and despite the

high number of objections received during the consultation process for this application which reiterate this fact, the weight to be given to the DNP at the present time is very limited due to the early stages of its development and the lack of evidence of community support for the preferred site.

- 8.12. This application is for the development housing outside the settlement of Desford within the countryside it is contrary to Policy 8 of the Core Strategy and Policy DM4 of the SADMP. Therefore there is a conflict with the spatial policies of the development plan. However, paragraph 11(d) of the NPPF is engaged and a 'tilted balance' assessment must be made. This must take into account all material considerations and any harm which is identified. All material considerations must be assessed to allow this balance to be made.

Design and impact upon the character of the area

- 8.13. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.14. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It should be noted that as the development is not considered to be sustainable development in the countryside in accordance with the first part of Policy DM4, any harm to the intrinsic value, beauty, open character and landscape character of the countryside would therefore be unjustified.
- 8.15. Objections to the application have been received on the grounds that the proposal would be detrimental to the character of the countryside.
- 8.16. The application site lies within the Newbold and Desford Rolling Farmland in the Hinckley and Bosworth Borough Landscape Character Assessment (2017) (LCA). This area is characterised by predominantly arable farmland with clustered areas of industry and recreational facilities near to the village fringes and clustered villages of varying sizes centred on crossroads. Large to medium sized field patterns are common in the area defined by single species hawthorn hedgerows. Although located within the countryside, to the north and west of the application site are existing residential dwellings. These residential dwellings are located within the settlement boundary for Desford. Open agricultural fields do lie to the east and south of the site. However, the mature hedgerow forms a physical barrier to the east of the site and the location of the public footpath forms a physical barrier to the south of the site.
- 8.17. The Landscape Sensitivity Assessment (2017) makes an assessment of the landscape sensitivity around Desford. The assessment area covers the area to the south, west and east of the settlement. This assessment concludes that the assessment area is considered to have an overall medium sensitivity to residential development to the rural character with limited urbanising influences so that it provides an attractive setting to the settlement of Desford. It also identifies that field patterns are generally smaller scale near to the settlement edge and the limited tree planting in adjacent back gardens result in a stronger relationship between existing residential development and the assessment area. The key sensitivity values of the assessment area around Desford are:
- The rural and sparsely settled character of the landscape with a relative sense of tranquillity

- Long distance views from relatively elevated areas created a high scenic quality and adds to the visual amenity.
 - Role of the landscape as a rural setting to Desford
 - Low hedgerows and mature hedgerow trees define historic field patterns and form part of the overall ecological network.
- 8.18. The landscape sensitivity study gives the following guidance for new development outside the settlement boundary of Desford in the assessment area:
- Seek Opportunities to maintain the rural character of the landscape and, where possible, conserve rural views and the setting of settlement
 - Plan for successful integration of potential new development in the landscape through sensitive design and siting, including use of sensitive materials and use of landscape mitigation to enhance sense of place
 - Seek to retain the pattern of hedgerows and hedgerow trees and encourage the use of traditional Midlands-style hedge laying for management
 - Seek to protect localised areas that retain a natural character and encourage tree planting to replace mature/veteran trees as they begin to deplete
 - Aim to maintain and enhance the recreational assets including rights of way network
 - Consider opportunities to create and promote an integrated green infrastructure network linking the waterways with the urban area.
- 8.19. The site is situated within a prominent position along Peckleton Lane and lies within an area where open countryside can be viewed from the settlement of Desford as described in the LCA. However, the existing boundary treatment which comprises of mature trees and hedgerows along the road boundary does shield views of the site from the street scene. The proposal would retain the landscaping along Peckleton Lane with the exception of the cutting back of vegetation to improve the vehicular access into the site and create a new pedestrian access further along Peckleton Lane. Whilst this site is adjacent to residential development, due to boundary planting this limits the urbanising influence of these areas. Development of this site for residential dwellings would result in moderate harm to the immediate area due to the change from countryside to urban development. . The development along Peckleton Lane to the south and south west of the site, which includes an allocated employment site and recreational facilities, affects the character of this area of the countryside, however significant screening is in place and therefore the effects of this built development is limited, as identified in the landscape sensitivity report. The development of this land would have an impact on the open character of the countryside within its localised setting, the level of this impact would be moderate in this semi-rural location.
- 8.20. The proposal is seeking to retain the field boundary hedgerows and trees, with the exception of areas for access in accordance with the guidance for new development in the landscape sensitivity study. Additional planting and landscape buffers are also proposed, however this would be secured at the reserved matters stage. Due to this the harm to the wider landscape is considered to be limited and subject to the details being approved at reserved matters stage the harm would reduce to negligible/low in the medium term within the wider landscape.
- 8.21. A residential proposal would extend the existing pattern of linear development along Peckleton Lane. Policy DM4 of the SADMP seeks to resist ribbon development, however, it is not considered that the proposal would constitute ribbon development

and would be more of a rounding off of the settlement boundary. As such, development of this land would not result in significant adverse harm given the surrounding built form, and its close relationship with the immediately adjoining neighbouring settlement boundary. The positioning of the built features around the boundary of the site in this instance ensures that the perceived separation between the settlement and the wider countryside is observed and maintained.

- 8.22. The existing residential dwellings along Peckleton Lane comprise of a mix of detached dwellings and semi-detached dwellings sited with limited front gardens. The proposal to retain the vegetation along the frontage of the majority of the site along Peckleton Lane would maintain the site's existing mature and open character which contributes to the semi-rural character of Peckleton Lane.
- 8.23. The application site does have a varied topography with a plateau in the south west corner of the site and higher ground levels along its north western boundary with Peckleton Lane. Indicative proposed contour plans have been submitted with the housing scheme which shows the sloping of the site from north to south to be more akin to the ground levels along Peckleton Lane and the properties to the west of the lane. This contouring would result in the new dwelling heights stepping up comparably to those on the opposite of the road in a more consistent manner. Whilst the finished floor levels of the dwellings would likely remain higher than the road, when considering the extent of the difference in the levels and the set back of the proposal behind a landscaped buffer, it is not considered that the residential scheme would dominate the adjoining residential properties. A planning condition could ensure that any reserved matters application relating to scale and layout should be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels to ensure that a satisfactory relationship is achieved between buildings in particular those along Peckleton Lane.
- 8.24. In addition to the above, a planning condition could also be imposed limiting the built development to no more than 80 dwellings and stating that there should be no development within 5 metres of any of the boundary hedgerows to ensure that this vegetation is retained between the built development and the countryside.
- 8.25. The proposal is found to have moderate harm to the character of the area within its localised and would have limited harm to the wider character area. Subject to landscaping details to be agreed at the reserved matters stage it is considered the harm to the wider area would be reduced to limited/negligible. Therefore there is conflict with Policy DM4 of the SADMP due to the harm identified to the character of the area and additionally there is some conflict with DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.26. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.27. As a result of public consultation, objections have been received on the grounds of loss of privacy from overlooking, loss of amenity from traffic movements and car headlights and loss of views. Objections also refer to loss of amenity from traffic, pollution and noise during the construction period.
- 8.28. Whilst there are existing dwellings adjoining the site boundary by virtue of the size of the site and subject to satisfactory layout, scale, design and landscaping which are matters reserved for future consideration, the indicative only layout submitted demonstrates that the site could be developed for up to 80 dwellings with

satisfactory separation distances, buffered landscape areas to the north and without resulting in any significant adverse impacts on the privacy or amenity of the occupiers of any neighbouring properties.

- 8.29. The construction of a development would be temporary and would not result in any long terms impacts on amenity. However, by virtue of the scale of development, the proximity to existing residential properties and potential duration of the construction phase, Environmental Health (Pollution) recommend a condition to secure the submission of a Construction Environmental Management Plan for approval prior to construction by the local planning authority to protect the amenities of neighbouring properties and minimise any adverse impacts. A condition is also recommended from the Highway Authority seeking to secure a construction traffic management plan to protect the amenity of neighbouring properties.
- 8.30. The development would not give rise to any adverse impact on residential amenity and is therefore in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.31. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. Policy 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.32. As a result of public consultation, objections have been received on the grounds of increased traffic flow, pollution and noise particularly in the village centre.
- 8.33. A Transport Statement, a Travel Plan, a Road Safety and a Traffic Modelling Technical Note have been submitted to support the application. These conclude that the proposal would not have any significant adverse impact on the operation of the surrounding highway network and safe access would be provided to and from the site.
- 8.34. The proposal includes details of the formation of one access point into the site via a new priority junction on the east side of Peckleton Lane. The recorded 85th percentile speeds along this stretch of the road are 37.4mph northbound and 39.9mph southbound. The required visibility splays of 74 metres in either direction can be achieved at the site access junction. The existing 30mph transition area will need relocating further south on Peckleton Lane. In addition to this, a footway would be provided to tie-in with the existing footway on Peckleton Lane.
- 8.35. Leicestershire County Council (Highways) has assessed the Transport Statement and submitted details and considers that, subject to a number of highway related conditions and infrastructure contributions towards encouraging the use of sustainable transport modes and facilitating easier access, the cumulative impacts of development can be mitigated and are not considered severe in accordance with the NPPF (2018).
- 8.36. The Highway Authority would not seek to resist the proposal on grounds of highway safety. However, the additional traffic modelling at the Desford Crossroads has found that following the introduction of development traffic, the overall junction capacity would be -25%. The Highway Authority state that development traffic would exacerbate an already overloaded situation resulting in a deterioration of junction performance. A contribution towards road improvements to the Desford Crossroads is sought from the proposal. However, such a request would not be CIL compliant as the number of contributions requested for this scheme has already

exceeded the threshold of 5. Therefore, the Highway Authority has confirmed that this contribution request would form part of a Section 278 agreement instead.

- 8.37. The application site lies within close proximity to the centre of Desford which is some 500 metres to the north. It is considered that the site is 'locationally' sustainable with regards to access to sustainable transport infrastructure which should encourage use of the services and establish changes in travel behaviour.
- 8.38. Subject to conditions and infrastructure contributions, the proposal would not result in any significant adverse impacts on the local highway network or highway safety and would therefore be in accordance with Policy DM17 of the adopted SADMP. Internal layout is to be considered at the reserved matters stage and by virtue of the size of the site it is unlikely that adequate off-street parking to serve the proposed development would not be able to be provided in accordance with Policy DM18 of the adopted SADMP.

Ecology

- 8.39. Policy DM6 of the adopted SADMP seeks to conserve and enhance features of nature conservation value and retain, buffer or manage favourably such features.
- 8.40. As a result of public consultation, objections have been received on the grounds of potential loss of mature hedgerows that bound the site and that site has potential for protected habitat/species interest.
- 8.41. An Ecology Report and a Landscape Strategy Plan has been submitted to support the application.
- 8.42. Leicestershire County Council (Ecology) has assessed the submitted information and they raise no objections to the proposal. They confirm that the proposal provides opportunities for ecological enhancement and are pleased that these have been incorporated into the Landscape Strategy Plan. They recommend that all boundary planting comprises of locally native species only and the planting mixes must be approved prior to the commencement of development. Given the amount of ecological enhancement proposed they also recommend that a biodiversity management plan is produced.
- 8.43. The layout is indicative only at this stage and is to be considered as a future reserved matter, as is landscaping of the site. However, a planning condition on the outline application can ensure that both a 5 metre buffer free of development can be maintained around all of the boundary hedgerows, that a Biodiversity Management Plan is submitted and that the existing vegetation is protected. Therefore, whilst the proposal would involve built development on this arable land, the scheme would enhance the biodiversity of the site subject to details being submitted at the reserved matters stage and as part of appropriately worded conditions.
- 8.44. The development would conserve the ecology of the surrounding area and is therefore in accordance with Policy DM6 of the SADMP.

Drainage

- 8.45. Policy DM7 of the SADMP seeks to ensure that development does not exacerbate or create flooding.
- 8.46. The Environment Agency flood maps identify the site as being located within Flood Zone 1 and do not highlight any concerns relating to surface water flooding. No evidence has been provided to demonstrate that the proposed dwellings would adversely impact on flood risk. The Local Lead Flood Authority has no objections to the proposal and confirms that the infiltration tests submitted support a non-infiltration surface water proposal. Indeed, the submitted drainage strategy consists of a 1,250 cubic metre detention basin and connection to an existing Severn Trent

Water system on Peckleton View controlled to 10.7l/s – a greenfield run-off rate. It is considered reasonable to require drainage details to be provided through a condition to ensure that surface water disposal incorporates sustainable urban drainage. It is considered that the development would be in accordance with Policy DM7 of the SADMP.

Affordable Housing, Housing Mix and Density

- 8.47. Policy 15 of the Core Strategy states that to support the provision of mixed, sustainable communities, a minimum of 2090 affordable homes will be provided in the borough from 2006 to 2026. Policy 15 seeks the provision of 40% affordable housing on all sites in rural areas with a tenure split of 75% for social rent and 25% for intermediate tenure.
- 8.48. Using data from The Housing Register (at December 2018) of the applicants on the housing register (as at February 2019) 60 have a local connection to Desford for the following property sizes:
- 1 bedroom properties- 24 applicants
 - 2 bedroom properties- 22 applicants
 - 3 bedroom properties- 13 applicants
 - 4 bedroom or more- 1 applicant
- 8.49. The greatest need for rented housing in Desford is 2 bedroom 4 person houses and 1 bedroom 2 person homes and 1 bedroom bungalows. The submitted Heads of Terms document includes the provision of 40% affordable housing units (32 units) in accordance with the requirements of Policy 15 of the adopted Core Strategy. The preferred mix as agreed with HBBC Affordable Housing would be
- 1 bed, 2 person dwellings – 25%;
 - 2 bed, 4 person dwellings – 34.5%;
 - 3 bed, 5 person dwellings – 34.5%; and
 - 4 bed, 6 person dwellings – 6%.
- 8.50. Since Desford is in a rural area the s106 agreement should include a cascade that the affordable housing for rent is offered firstly to people with a connection to the parish, and secondly to people with a connection to the Borough.
- 8.51. Policy 16 of the Core Strategy states that proposals for new residential development will be required to meet a minimum net density of a least 30 dwellings per hectare within key rural centres such as Desford. The density of the proposed site is 21.7, which is lower than the prescribed policy position. However, this policy also sets out where individual site characteristic dictate and are justified, a lower density may be acceptable. In this instance a lower density is considered to be acceptable due to the site being bound on all sides by hedgerows and trees which are considered to be important to mitigating the impact of the development on the character of the area (as discussed), LCC (Ecology) seek a 5m buffer to this planting which again reduces the available developable area of the development, in addition to this the drainage attenuation necessary would also need further open space to be provided on site which reduces the housing density which can be delivered.
- 8.52. Overall it is considered that the proposal is compliant with the provisions of Policies 15 and 16 of the Core Strategy.

Infrastructure Contributions

- 8.53. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.54. The request for any planning obligations (infrastructure contributions) must be considered against the requirements contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations require that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

Public Play and Open Space

- 8.55. Policies 3 and 19 of the adopted Core Strategy seek to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within Hinckley. The Open Space and Recreation Study (2016) provides further advice on the quality of facilities at each designated public open space.
- 8.56. The indicative only layout suggests the provision of public open space around the site to include play equipment. For 80 dwellings there would be a requirement for 288sq m of equipped children's play space and 133 sq m of casual/informal play spaces along with the provision of play equipment and the maintenance of these areas for a 20 year period. There would also be a requirement for off-site play and open space provision of 3072 sq m and 3200 sq m of accessible natural green space and their maintenance. The contributions required based upon 80 dwellings and the equipped children's play space will be provided on site are:

	On site maintenance (20 years)	Off site provision	Off site maintenance (10 years)	Total
Equipped Children's Play Space	£50,572.80	/	/	£50,572.80
Casual/Informal Play Spaces	N/A	£5,967.36	£7,257.60	£13,224.96
Outdoor Sports Provision	N/A	£27,801.60	£13,209.60	£41,011.20
Accessibility Natural Green Space	N/A	£13,088.00	£22,720.00	£35,808.00
			Overall Total	£140,616.96

- 8.57. As this is an outline application contributions would be required based on the amount of housing provided. As the application is submitted in outline format the formula in The Open Space and Recreation Study (2016) can be used to calculate the contribution required as a percentage for each unit provided. This request is considered to be CIL compliant and is necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

- 8.58. As a result of consultations Leicestershire County Council (Developer Contributions) have identified the following infrastructure contributions to mitigate the impacts of the proposed development:

LCC Developer Contributions

- 8.59. Two contributions are requested towards Civic Amenity (£3,962.00) and Library Services (£2,290) at Desford Library. In this instance it is considered that these requests are CIL compliant, the library is within Desford in close proximity to the site and it is reasonable to expect additional demand on its services, moreover, the contribution towards Barwell tip are considered to reasonably relate in scale and kind to the proposed development.

Education

- 8.60. The Director of Children and Family Services requests a contribution of £227,635.29 towards education facilities in Desford to mitigate the impact of additional users from the development at Desford Community Primary School or any other primary school in the catchment area of the development where deficits have been identified and additional facilities are required to meet increased demand from the development. A contribution has also been requested for the Secondary School Sector of £260,901.00 to mitigate the impact of additional users from the development at Bosworth Academy or any other school within the educational catchment area of the development.

Transport Sustainability

- 8.61. The Director of Environment and Transport requests a contribution towards improvements to the A47/Desford Road signalised crossroads of £145,250. The contribution is required and is reasonably related to the development as the additional traffic modelling at the Desford Crossroads has found that following the introduction of development traffic from the proposal, the overall junction capacity would be -25%. However, as stated above, this request would not be CIL compliant and so the Highway Authority has confirmed that this contribution would be provided as part of a Section 278 agreement instead.
- 8.62. The requests from LCC are all considered to be CIL compliant and is necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

West Leicestershire CCG

- 8.63. NHS West Leicestershire requests a contribution of £52,380.00 towards additional health care at either Ratby Surgery or Desford Surgery as a result of additional patients generated by the proposed housing scheme.
- 8.64. This request is considered to be CIL compliant and is necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

University Hospitals Leicester NHS Trust

- 8.65. A contribution of £40,235.00 is requested towards the gap in the funding created by each potential patient from this development in respect of A & E and planned care.
- 8.66. The applicant's agent has confirmed that the contributions are generally acceptable subject to final details being agreed should the application be recommended for approval and that the agent has also confirmed that the development can viably support these contributions along with the provision of 40% affordable housing on site.

- 8.67. The contributions could be secured through the completion of a suitable section 106 planning obligation should the application be recommended for approval in accordance with Policies DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy.

Other Issues

- 8.68. As a result of public consultation, objections have been received on the grounds of loss of property value; however, this is not a material planning consideration.

9. Planning Balance

- 9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 9.3. The proposal would be in conflict with Policy DM4 of the SADMP. This policy is in accordance with the Framework and has significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the character of the area and so there is some conflict with Policy DM10 of the SADMP.
- 9.4. The emerging DNP does not form part of the adopted Development Plan as it has yet to be made. Nevertheless, it is accepted that the bringing forward of development that is not plan-led is harmful in the sense that it removes from the local community the ability to shape its surroundings and environment. The application site is not the preferred housing site in the emerging DNP. Nevertheless, it does attract a positive score in the DNP and is included in their assessment of possible future housing sites. In addition to this, the consultation responses received to the DNP do not appear to demonstrate a preferred site for housing from the Desford community.
- 9.5. Weighed against the conflict with the Development Plan is the Government's commitment to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of up to 80 houses (including up to 32 affordable homes). These additional houses and affordable housing have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area. The applicant has stated that they wish to commence development within three years of any approval and so have agreed to a time condition which would achieve this early commencement of development.
- 9.6. Paragraph 11 of the NPPF states that the harm identified should be significant and demonstrably outweigh the benefits of the scheme. It is therefore important to identify the benefits of the scheme. Following the three strands of sustainability the benefits are broken down into economic, social and environmental:
- 9.7. The proposal would result in economic benefits through the construction of the scheme through creation of jobs and construction spend, albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services.

- 9.8. As discussed the proposal would deliver 80 dwellings, of which 40% would be affordable. This would result in a significant social benefit to the area and also to the borough. The proposal would also involve the provision of an area of public open space and play which would be available to other nearby residents of Desford.
- 9.9. Some environmental benefits would be provided such as additional planting through landscaping in the provision of open space and the installation of a footpath along Peckleton Lane. Additionally there would be some benefit for biodiversity associated with the reinforcement and new planting of hedgerow and trees around the site.
- 9.10. The site is currently an open field within the countryside and the proposal would result in the urbanisation of this semi-rural area. This would therefore cause harm and would result in a change in the character of the immediate area, contrary to Policy DM4 and DM10 of the SADMP. Whilst this harm is regrettable it is considered to have moderate harm within the immediate area, however from wider views the impact to the character of the area would be limited. Subject to the reserved matters details it is considered that an appropriate scheme could be delivered with additional planting and the provision of open space which would reduce the harm within the medium term to limited within the wider setting.
- 9.11. On balance it is considered that the harm identified to the character and appearance of the countryside from new residential development would not significantly and demonstrably outweigh the identified benefits of the scheme. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations do justify making a decision other than in accordance with the development plan. The application is therefore recommended for approval subject to the conditions and planning obligations listed above.

10. Equality Implications

- 10.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 10.3. There are no known equality implications arising directly from this development.
- 10.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

11. Conclusion

- 11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 11.2. The proposal, subject to conditions, is in accordance with Core Strategy Policies 15, 16 and 19 and Policies DM3, DM6, DM7, DM17 and DM18 of the SADMP.
- 11.3. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 11.4. The proposal would be in conflict with Policy DM4 of the SADMP. This policy is in accordance with the Framework and has significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the character of the area and so there is some conflict with Policy DM10 of the SADMP.
- 11.5. Weighed against the conflict with the Development Plan is the Government's commitment to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of up to 80 houses (including up to 32 affordable homes). These additional houses and affordable housing have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 11.6. As such, although there is conflict with strategic Policy DM4 of the adopted SADMP, there has only been moderate conflict found with strategic Policy DM10 of the SADMP.
- 11.7. On balance it is considered that the harm identified to the character and appearance of the countryside from new residential development would not significantly and demonstrably outweigh the identified benefits of the scheme. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations do justify making a decision other than in accordance with the development plan. The application is therefore recommended for approval subject to the conditions and planning obligations listed above.

12. Recommendation

- 12.1. **Grant planning permission** subject to:
 - The prior completion of a S106 agreement to secure the following obligations:
 - 40% of the total number of dwellings shall be affordable units and shall be delivered on-site with a mix of 75% social or affordable rent and 25% intermediate tenure and a mix of:
 - 1 bed, 2 person dwellings – 25%
 - 2 bed, 4 person dwellings – 34.5%
 - 3 bed, 5 person dwellings – 34.5%
 - 4 bed, 6 person dwellings – 6%
 - On-site Play and Open Space Scheme, Provision and Maintenance.
 - Off-site Play and Open Space Provision and Maintenance.
 - Education Contribution of £227,635.29 towards the improvement, remodelling or enhancement of the existing facilities at Desford Community

Primary School or any other school within the educational catchment area of the development.

- Education Contribution of £260,901.00 towards the improvement, remodelling or enhancement of the existing facilities at Bosworth Academy or any other school within the educational catchment area of the development.
 - Health Care Contribution of £52,380.00 towards additional health care services at either Ratby Surgery or Desford Surgery.
 - Planning conditions outlined at the end of this report.
- 12.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.
- 12.3. That the Interim Head of Planning be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

12.4. **Conditions and Reasons**

1. 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 planning permission is submitted in outline form only and the reserved matters are required to be submitted in accordance with the requirements of Part 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

2. Application for the approval of reserved matters shall be made within 18 months from the date of this permission and the development shall be begun not later than one year from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure that the development is delivered in a timely manner in accordance with Paragraph 76 of the National Planning Policy Framework 2019.

3. The development hereby permitted shall be carried out in accordance with the approved Location Plan – PL001; Landscape Strategy Plan - 6651/LSP/ASP3; and, Access Plan – T18555/002/Rev A received by the local planning authority on 11 December 2018 and the Revised Ecology Report received 12th February 2019.

Reason: Identification of the approved plans is necessary to confirm the extent of the development and the location and form of the approved access.

4. No more than 80 dwellings shall be constructed on the site including no development within 5 metres of any of the boundary hedgerows.

Reason: To ensure a satisfactory impact of the development and to enhance the ecological value of the proposed development.

5. Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.

Reason: To ensure that a satisfactory relationship is achieved between buildings in particular those along Peckleton Lane in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

6. Any reserved matters application shall be accompanied by a scheme which details the proposed housing mix for the development which should be in accordance with the Council's adopted Development Plan and the housing needs of the area. The development shall then be completed in accordance with the approved details.

Reason: To ensure an appropriate housing mix to meet the housing needs of the locality is provided in accordance with Policy 16 of the Core Strategy 2009.

7. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site 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 ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with Policy DM7 of the SADMP 2016.

8. 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 and implementation 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 in accordance with the agreed implementation period.

Reason: To ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with Policy DM7 of the SADMP 2016.

9. Development shall not commence until details of all trees, shrubs and hedges to be retained, including any trees located outside but adjacent to the site boundary, together with the means of protecting them from damage during the carrying out of the development have been submitted to and approved in writing by the local planning authority. The approved means of protection shall be installed prior to the commencement of development and shall remain in place until after the completion of the development.

Reason: Whilst landscaping is a reserved matter, a condition is necessary at this stage to ensure that the existing landscaping on the site is protected in

accordance with DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

10. No development shall commence on site until a Biodiversity Management Plan for the site which shall set out the site-wide strategy for protecting and enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the development is completed, has been submitted to the local planning authority for their approval in writing. The submitted plan shall include all retained and created habitats including SUDs. Development shall be implemented and thereafter maintained in accordance with the approved Management Plan.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD.

11. 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 Site Allocations and Development Management Policies.

12. No development shall commence on site until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority and the approved details shall then remain in force throughout the construction period. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored and a procedure for the investigation of complaints. Site preparation and construction hours shall be limited to between 0730 to 1800 Monday to Friday and 0800 to 1300 on Saturdays. There shall be no working on Sundays and Bank Holidays.

Reason: To ensure the protection of neighbouring residential amenity during construction to accord with Policies DM7 and DM17 of the SADMP.

13. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

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

14. No development shall commence on site until a Footpath Management Plan has been submitted to and approved in writing by the local planning authority. Such a plan shall include details of temporary diversion, fencing, surfacing, signing and a time table for provision. The approved details shall then be implemented in full on site prior to the occupation of the first dwellinghouse.

Reason: To ensure the Public Right of Way is safe and available during the period of construction in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

15. No development shall commence on site until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme should include infiltration testing to confirm (or otherwise) the suitability of the site for the use of infiltration as a drainage element and should ensure that surface water does not drain into the Public Highway. Development shall be carried out in accordance with the approved details.

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

16. No development shall commence on site until such time as details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

17. No development shall commence on site until such time as details in relation to the long term maintenance of the sustainable surface water drainage system within the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

18. In the event that development is not commenced by June 2020, no development shall take place until details of further surveys to establish the presence of badgers which could be affected by the proposed development, and a mitigation/compensation scheme if required, have been submitted to and approved in writing by the local planning authority. Mitigation/compensation works shall be carried out in accordance with the approved scheme.

Reason: To ensure that any delays in construction is preceded by more up-to-date survey work to protect any badgers that could be affected by the proposal, in accordance with Policy DM6 the Site Allocations and Development Management Policies DPD..

19. No part of the development hereby permitted shall be occupied until such time as the access arrangements and gateway treatment shown on approved Drw No: T18555/002/REV have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Framework DPD and in accordance with the National Planning Policy Framework (2019)

20. No part of the development hereby permitted shall be used until such time as the offsite works which includes the extension of the public footpath along

Peckleton Lane and the crossovers as shown on approved Drw No: T18555/002/REV have been implemented in full.

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

21. A signing and waymarking scheme in respect of the Public Right of Way R99 shall be submitted to the local planning authority for approval in writing. The approved scheme shall then be implemented prior to the occupation of the first dwellinghouse hereby approved

Reason: To ensure the footpath is easy to navigate through the development and in the interests of amenity, safety and security of users of the Public Right of Way in accordance with Policy DM17 of the Site Allocations and Development Management Framework DPD.

22. Prior to the occupation of any of the dwellinghouses hereby approved, a scheme which makes adequate provision for waste and recycling storage of containers and collection across the site has been submitted to and approved in writing by the local planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The scheme shall then be implemented in accordance with the approved details.

Reason: To ensure that collection points for domestic recycling, garden waste and refuse is made from the adopted highway boundary in accordance with Policy DM10 of the Site Allocations and Development Plan Policies DPD.

12.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>.
3. A tarmac link would be desirable, linking Footpath R99 to Peckleton Lane. This will be useful for residents in houses living in close proximity to Footpath R99 as this will provide a direct walking route towards Peckleton Lane.
4. Public Rights of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
5. If there are any Public Rights of Way which the applicant considers impracticable to retain on their existing lines, a separate application for diversion is required. It should be submitted under the Town and Country Planning Act 1990 to the local planning authority. The applicant is not entitled

to carry out any works directly affecting the legal line of a Public Right of Way until a Diversion Order has been confirmed and become operative.

6. Public Rights of Way must not be further enclosed in any way without undertaking discussions with the County Council's Safe and Sustainable Travel Team (0116) 305 0001.
7. If the developer requires a Right of Way to be temporarily diverted or closed, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 8 weeks before the temporary diversion/closure is required.
8. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
9. No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
10. No trees and shrubs shall be planted within 1 metre of the edge of the Public Right of Way. Any trees or shrubs planted alongside the public right of way should be non-invasive species.
11. Leicestershire Police advises that lighting throughout the site is recommended to be to BS5489 with special attention to the vehicle entry point. This would support the use of CCTV to view and record images of number plates deterring unauthorised access and providing Police with a direct line of enquiry in the event of crime. Appropriate Data Protection Act signage should be in place in the event of CCTV use. The use of a symbolic entry with signage and change of road surface and colour would also deter potential offenders. Leicestershire Police also provide a list of general recommendations which should inform any reserved matters schemes submitted as part of this proposal.
12. Severn Trent Water advise that although their statutory sewer records do not show any public sewers within the area, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent.
13. All landscape planting in the informal/natural open space and adjacent to the site boundaries shall be locally native species only.
14. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations.

Full details for the drainage proposal should be supplied including, but not limited to: construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change storm events.

15. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided. The 1 in 3 basin side slopes should be supported in line with current best practice and 1 in 4 gradients used where appropriate.
16. Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual householder ownership.

APPENDIX B

ITEM 07

18/01252/OUT

Glenalmond Developments Ltd

Site:- Land East Of, Peckleton Lane, Desford

Proposal:- Residential development up to 80 dwellings with associated works (Outline - access only)

Appraisal:-

A contribution request was made by University Hospitals Leicester NHS Trust (UHL) for £40,235.00 towards the gap in the funding created by each potential patient from the development in respect of A&E and planned care. The evidence provided by the UHL is not sufficiently robust to conclude that the CIL Regulation 122 test can be satisfied. Therefore the contribution is not considered to be CIL compliant and will not be sought for this development.

A contribution request was made by Desford Parish Council for £75,000.00 towards installing appropriate traffic lights at the Dan's Lane/A47 junction. The Highway Authority has responded to this request. They state that an analysis of the traffic modelling data demonstrates that the Dan's Lane junction currently operates within capacity. The introduction of development traffic associated with the proposed residential scheme would result in additional queueing of 3 vehicles by 2023. As such, the residual cumulative impact from the proposal on this junction is not considered to be severe in accordance with the NPPF. There are no projects planned to improve this highway junction. Therefore, this contribution would not be considered to be CIL compliant and will not be sought for this development.

Recommendation:-

The recommendation remains to grant planning permission subject to the details outlined in the original Planning Committee Report.

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Planning Committee 23 July 2019
Report of the Planning Manager

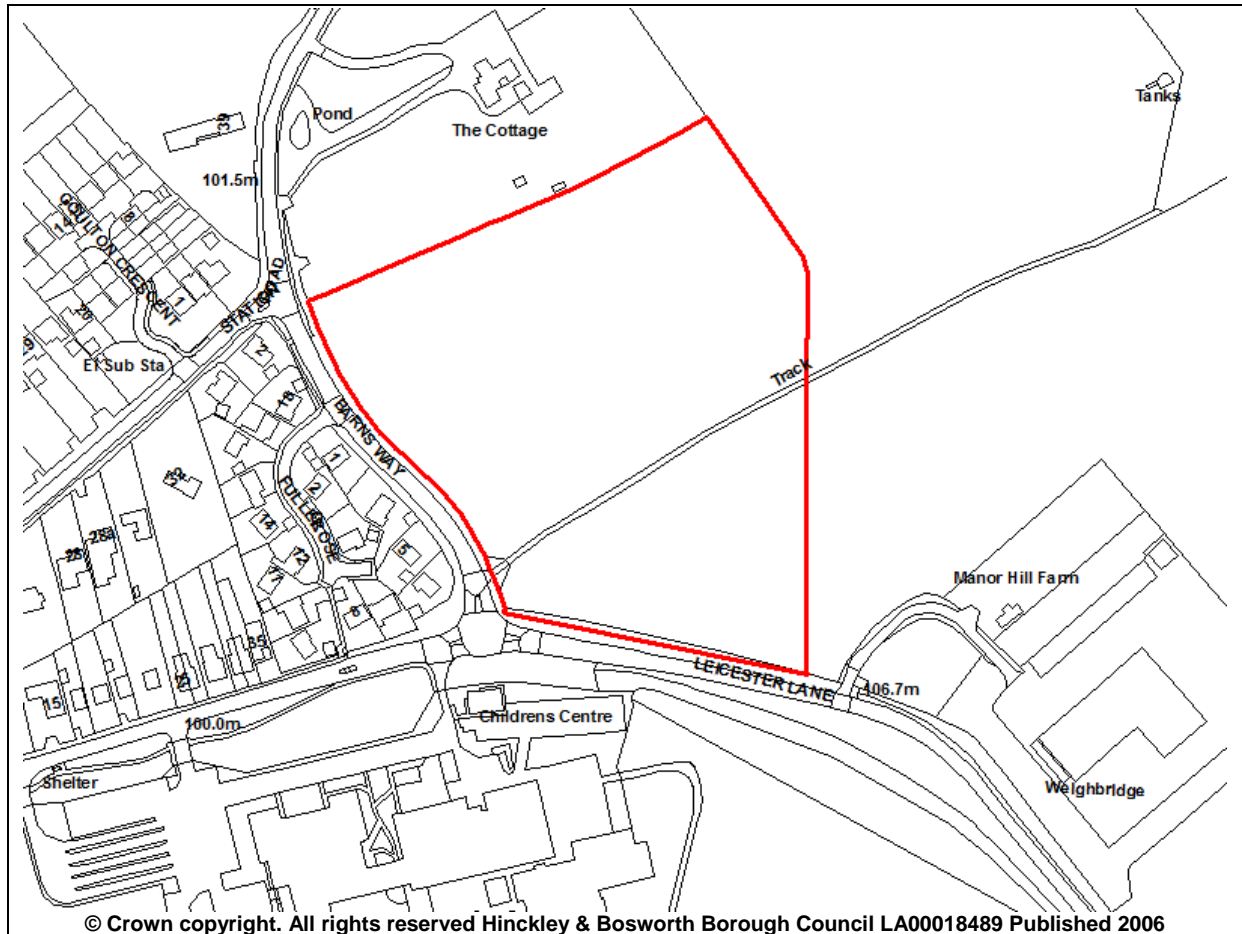
Planning Ref: 19/00149/OUT
Applicant: Rosconn Strategic Land
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Land Opposite Bosworth College Leicester Lane Desford

Proposal: Residential development of up to 80 dwellings and associated works
(Outline- access only)



1. This application was reported to the previous Planning Committee on 25th June 2019. Notwithstanding the officer's recommendation that permission be granted, members were minded to refuse the application.
2. Concerns were raised regarding the impact of allowing the development on the character and appearance and intrinsic value of the countryside and its compliance with Policy DM4 of the SADMP.
3. Since the Planning Committee meeting on 25th June 2019, the Council has received a planning appeal decision for a proposed housing scheme at Land at Crabtree Farm, Hinckley Road, Barwell (appeal reference APP/K2420/W/19/3222850). This appeal was allowed. The inspector confirmed that the Council can not demonstrate a five year supply of housing

land and gave substantial weight to the provision of new housing (paragraph 29 of the decision). The inspector concluded:

'There is an agreed significant shortfall in housing land supply. The homes would be located in an accessible location and would bring economic and other benefits. To be weighed against that is the harm that I have found in relation to the character and appearance of the area and to the role and function of the Green Wedge. In my view, that harm would be limited in the wider context and would not outweigh the significant benefits of the proposal, let alone significantly and demonstrably outweigh them when assessed against the Framework as a whole. In these circumstances, I consider that the appeal scheme would comprise sustainable development and the presumption in favour of such, as set out in the Framework, and the development plan, applies. That is a significant material consideration that outweighs any conflict with some elements of the development plan. Therefore, for the reasons set out above, I conclude on balance that the appeal should succeed.' (Paragraph 54 of the decision)

4. This appeal is a material consideration when weighing the merits of this planning proposal, it identifies the weight to be given to the provision of housing in the Borough as substantial and any harm identified must be significant and demonstrable to outweigh this benefit.
5. Additional comments have been received from Desford Parish Council and are summarised below;
 - Desford Parish Council wish to reiterate our support for the proposal.
 - This site emerged as the preferred site in the parish during the Neighbourhood Plan process, using a sustainability appraisal of each site using the same objective criteria applied consistently to each site by our consultants.
 - It is anticipated that the Pan will go to referendum in late 2019/early 2020
6. The applicant has highlighted that page 16 of the submitted Design and Access Statement sets out the design principles that establish the net developable area, which is 2.4ha and therefore concludes that the net density for 80 dwellings would be 33 dwellings per hectare which is policy compliant.
7. Following the previous committee the agent has provided additional information in response to matters raised by members and is summarised below
 - The Neighbourhood Plan process clearly identified the application site as the preferred option.
 - The applicant confirms that the site remains both viable and deliverable having taken the s.106 requirements in to account.
 - The proposed development provides an equipped children's play space larger than policy requirements for the scheme, which is needed in this part of Desford.
 - The site is accessible via a number of sustainable transport modes and within walking distance of a number of facilities.
 - The Transport Statement (reviewed and agreed by LCC Highways) confirms the vehicle movements generated by the site can be safely

accommodated with the proposed access and the capacity of the adjacent junctions.

- All new dwellings would be provided with high speed broadband and the applicant is in agreement with a condition.
- The Ecological Appraisal confirms Botcheston Bog would not be affected by the proposal.
- HBBC (Pollution) has no objection to the application subject to condition relating to the submission of a written scheme of investigation.
- It is acknowledged that the proposal leads to the loss of a green fields site, however, this is necessary to address the housing needs. Any harm to the countryside would be relatively limited.

8. Members discussed the importance of fibre broadband at the previous Committee, paragraph 112 of the NPPF also emphasises this importance. Albeit, the Council does not have an adopted Local Plan policy, in this instance the applicant has agreed to a condition, as stated above, therefore an additional condition is recommended to those identified in section 12 of the original report (see Appendix A);

24. Prior to the commencement of development a scheme for the delivery of full fibre broadband connections to serve each dwelling on the application site, shall be submitted to and approved in writing by the Council. The fibre broadband connection shall be made available to each dwelling in accordance with the approved scheme.

Reason: To provide advanced high quality and reliable communications infrastructure to accord with paragraph 112 of the National Planning Policy Framework (2019).

9. The application proposal has not been altered. The recommendations to Planning Committee do not alter from those identified in the previous report to committee and the proposal is considered acceptable in planning terms and recommended for approval subject to the conditions contained in the previous report attached at Appendix A and the additional condition identified above.

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Planning Committee 23 July 2019
Report of the Planning Manager

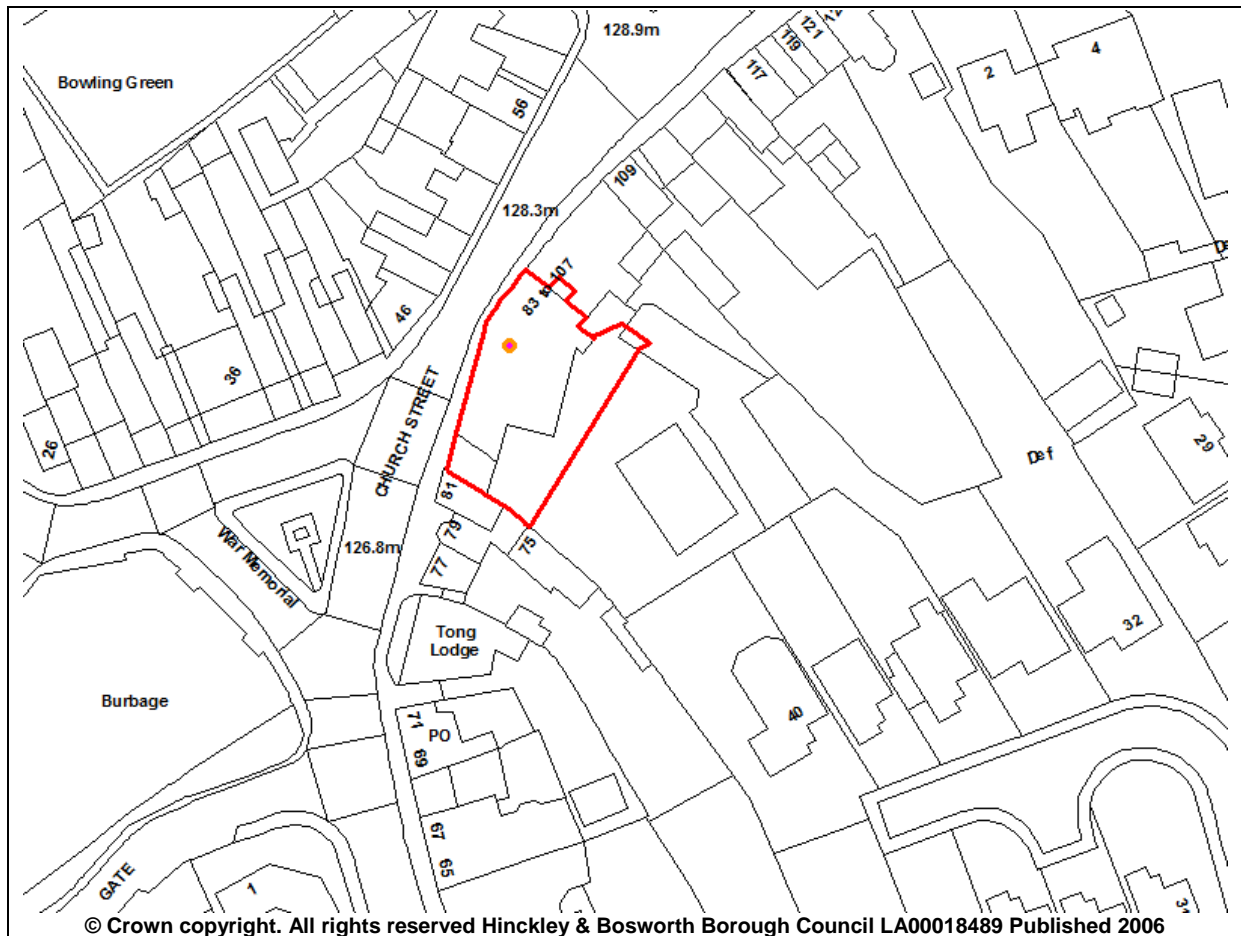
Planning Ref: 19/00452/FUL
Applicant: Mr Timothy Arnold
Ward: Burbage St Catherines & Lash Hill



Hinckley & Bosworth
Borough Council

Site: 83 - 103 Church Street Burbage

Proposal: Change of use of part of existing retail unit to drinking establishment
(Use Class A4)



1. Recommendations

1.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report.

2. Planning Application Description

- 2.1. This application seeks the change of use of part of the existing ground floor retail use to use as a drinking establishment under use class A4 which includes public houses, wine bars or other drinking establishments (but not night clubs) including drinking establishments with expanded food provision under use class A4. Planning permission ref: 16/00885/FUL included the application unit and this permission has been lawfully commenced. That permission approved the change of use of part of the retail unit to either a retail unit (class A1) or use as a hot food takeaway (class A5). As such there is an extant planning permission in place on this part of the

ground floor retail unit for its change of use to a hot food takeaway (A5) and this permission can be implemented at any time.

- 2.2. Minimal alterations are proposed to the elevations of the application unit. The existing powder coated aluminium glazed shopfront and door would continue to form the main entrance into the building with the door remaining inward opening. The blocked up window on the front elevation would be replaced with a new powder coated aluminium window which would have a top opening window pane. The rear elevation would remain unaltered with the exception of a need for extract ducts if hot food is to be served on the premises. Access to the parking, situated at the rear of the site, would remain through an existing archway from Church Street. One car parking space is shown to be allocated for the application unit. An enclosed bin/empty cask store would be located to the rear of the site.
- 2.3. Internally, the application unit comprises some 70m² of floor space and is intended to have a capacity of circa 60 people. There would be a serving bar along with a small kitchen created to the rear of the premises. An existing cold room, immediately behind the bar serving area would be used as a Beer Cellar. There would be two toilets along with an existing cellar located underneath the toilets to be used as a storage area.

3. Description of the Site and Surrounding Area

- 3.1. The application unit is located within the settlement boundary and Conservation Area of Burbage. Forming the centre unit of the former Co-Op Store between the Dental Practice and the Funeral Directors, it is understood that the whole site is still owned by the Co-op and the application unit would be let as a commercial premises.
- 3.2. The built form in the surrounding area is predominantly two storeys, with the existing building itself being two storey. The building curves round reflecting the curved nature of Church Street. Above the application unit are residential apartments at first floor level along with two storey terraced residential properties opposite the site. Indeed, the application unit lies within a neighbourhood centre as defined in the SADMP where there is a mixture of commercial and residential uses.

4. Relevant Planning History

16/00885/FUL	Change of use of part of existing retail unit to either a retail unit (A1) or hot food takeaway (A5). Change of use of office (B1) and dance studio (D2) to residential (C3) to form 5 flats. Demolition of part of outbuilding to rear and erection of a two storey side extension	Planning Permission	04.01.2017
17/00451/CONDIT	Variation of condition 2 of planning permission 16/00885/FUL to amend front and rear facade of main	Planning Permission	04.07.2017

	building, remove extension to outbuilding and rearrange layout of rear parking area		
09/00473/COU	Change of use to Office (B1)	Planning Permission	18.08.2009
18/00747/FUL	Conversion of existing office building to 2 flats and associated alterations to car parking and landscaping	Planning Permission	26.10.2018

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 published in the local press.

5.2. During the consultation period, 12 letters of objection have been received from individual addresses. These letters raise the following issues:

- 1) Noise disturbance from customers and live music
- 2) Live music next to the funeral directors would be disrespectful
- 3) People would stand outside on the pavement to smoke causing the obstruction of an already narrow pavement
- 4) There are no toilet facilities in the building
- 5) There would be pedestrian safety issues from customers leaving the bar as the footpath is very narrow (between 0.8m – 1m wide)
- 6) Limited parking for cars and motorbikes in the area for 60+ customers
- 7) Amenity issues from the proposed smoking area at rear of building next to residential flats and a fire escape
- 8) There are 7 licensed premises within 650 metres of the site which generate noise complaints from live music and this proposal has already applied for a live music licence. This is a small village and not a town centre
- 9) Anti-social behaviour would be experienced from customers and the police should be consulted on this application
- 10) Illegal parking on double yellow lines in the area and so a car parking survey is required
- 11) Installing opening windows at the front and having a fire door open for smokers at the rear would allow noise from live music to impact on residential properties
- 12) Smokers would block fire exit for flats above

5.3. 52 letters of support have been received from individual addresses raising the following areas of support:

- 1) This proposal would re-use a building which is an eyesore and has been vacant for a while and does nothing to improve the appearance of the area
- 2) Burbage has already lost 2 public houses so more needed
- 3) The building will be a good place for people to enjoy craft beers and ciders
- 4) Owner already runs a public house which does not attract any anti-social behaviour and this public house has added footfall into Hinckley
- 5) This use would be a valuable part of the community

- 6) Family run award winning micro pubs should be encouraged and they attract the mature type of drinker
- 7) A relaxed and friendly environment is proposed which does not encourage heavy drinkers
- 8) The proposal would create jobs and income and would be a great addition to Burbage
- 9) Micro breweries gain support from CAMRA and small ventures should be supported in a time when public houses are in rapid decline

6. Consultation

- 6.1. No objection some subject to conditions from the following:

Environmental Health (Pollution) - conditions
 HBBC Waste Services - condition
 HBBC Conservation Officer
 Leicestershire Police
 Environmental Health (Drainage)

- 6.2. Burbage Parish Council objects to the application on the grounds of public safety. The Parish Council maintains that the pavement to the front of the premises is extremely narrow and does not allow for easy passing of pedestrians. An increase in pedestrian traffic arriving and leaving the application premises would compound this already hazardous stretch of pavement. There are also examples of indiscriminate parking in the area and evidence will be provided.
- 6.3. The Highway Authority refers the local planning authority to current standing advice. Although they note that the proposal could increase demand for parking in the area, they state that it is unlikely to constitute reasonable grounds to resist the proposal as there is on-street parking within the vicinity of the site which can be used by customers/visitors and restrictions to prevent indiscriminate parking within the area.

7. Policy

- 7.1. Core Strategy (2009)

- Policy 4: Development in Burbage

- 7.2. Site Allocations and Development Management Policies DPD (2016) (SADMP)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM22: Vitalising District, Local and Neighbourhood Centres
- Policy DM23: High Quality Shop Fronts and Advertisements
- Policy DM25: Community Facilities

- 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

- 7.4. Other Considerations

- Burbage Conservation Area Appraisal (2011)
- Emerging Burbage Neighbourhood Plan (BNP)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area and the Burbage Conservation Area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Other Considerations

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP). The emerging Burbage Neighbourhood Plan (BNP) is still in development. The BNP has yet to be submitted to the LPA for Submission Consultation prior to Examination by an Inspector and subsequent referendum. Therefore, very limited weight can be afforded to it at this time.
- 8.4. The application site is located within the settlement boundary and conservation area of Burbage. Policy 4 of the Core Strategy identifies Burbage as a key centre which supports Hinckley's role as a sub regional centre. Policy 4 also aims to support the Burbage local centre and ensure that the village's infrastructure can accommodate new development. The development is sustainably located with regards to access to services, facilities and modes of public transport and would therefore be in accordance with Policy 4 of the Core Strategy and DM22 of the SADMP.
- 8.5. The site is designated as a Neighbourhood Centre within Policy DM22 of the SADMP. Policy DM22 states that 'the change of use or loss of A1 or A2 uses within the neighbourhood centres will only be permitted where it would not reduce the community's ability to meet its day to day needs.' There is an extant planning permission on the application unit for the change of use to an A5 use (hot food takeaway) and so there would be no conflict with Policy DM22 with respect to the loss of an A1 or an A2 use within the area.

Impact upon the character of the area and the Burbage Conservation Area

- 8.6. The application unit is located within the settlement boundary and Conservation Area of Burbage. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states in determining the application special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.7. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and this applies irrespective of whether any potential harm

amounts to substantial harm total loss or less than substantial harm to the significance.

- 8.8. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced. Policy DM10 of the SADMP 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 surrounding area. Policy DM23 of the SADMP seeks to maintain high levels of design and ensure local distinctiveness for proposals for new and refurbished shop fronts.
- 8.9. The application unit is part of an important and prominent building within the Burbage Conservation Area with the curve in the building reflecting the curved nature of Church Street. Despite the modern interventions on the ground floor, the building does contribute to the character and appearance, and thus significance of the conservation area.
- 8.10. The Council's Conservation Officer raises no objection to the application proposal. Due to the limited amount of alterations required to its external elevations, the Conservation Officer considers that the character and appearance of the building would be retained and the significance of the Burbage Conservation Area would be preserved.
- 8.11. In addition to the above, the proposal would also bring this empty unit back into a beneficial use and the replacement of the boarded up window with a window to match the existing shopfront would enhance the appearance of the building to the benefit of the significance of the Conservation Area.
- 8.12. Due to the nature of the site and the proposed location of the bin store, a scheme which makes adequate provision for waste and recycling and collection from the unit would need to be submitted to ensure that there is no impact from waste on the street scene or the conservation area. It is recommended that this be secured by condition.
- 8.13. The proposed works would retain the character and appearance of the building and the significance of the Burbage Conservation Area. The proposal would enhance the significance of the conservation area and it therefore complies with Policies DM10, DM11, DM12 and DM23 of the SADMP, section 16 of the NPPF and the statutory duty of section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.14. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties. Policy DM22 of the SADMP supports the use of upper floors of retail premises within local and neighbourhood centres for residential use.
- 8.15. There are residential properties above the application unit. Details have been submitted with the planning application of the Fire and Acoustic Ceiling Specification which has been installed between the unit and the residential apartment in preparation for its use as a takeaway. Based on these details the Council's Environmental Health Officer has no objections to the A4 use now being proposed to be operated from the unit.
- 8.16. With regards to the noise levels for external plant from the air conditioning units/cooling units and ventilation, full details of the noise levels were contained in a

Noise Mitigation Report submitted with the 2016 planning consent. The Environmental Health Officer has assessed the noise report submitted and considers there would be no harm caused to residential amenity from these air conditioning units. It is recommended that a planning condition is imposed which ensures that the noise from any external plant and equipment is in accordance with this Noise Mitigation Report. With regards to the proposed preparation of hot food within the building, the Environmental Health Officer has assessed the application and considers that a flue could be installed to the rear of the building which would not have a detrimental impact upon the residents on the first floor and the residents adjacent to the site. A planning condition is recommended which ensures that no hot food is prepared on site until full details of the ventilation scheme have been submitted to and approved in writing by the local planning authority in order to protect the amenity of neighbouring residents.

- 8.17. In addition to the above, the first floor residential apartments are situated on the front of the building, with a communal corridor separating the residential accommodation from the rear elevation of the building. As such, there is an intervening area between the first floor apartments and the proposed air conditioning units/cooling units and the possible indicative location of the flue.
- 8.18. The majority of the objections received relate to the noise which could be generated by the proposed drinking establishment particularly from live music. The use proposed does have the potential to generate footfall late into the evening. The proposal also includes a small opening window on the front elevation. Opening hours can be restricted by a planning condition to ensure the protection of residential amenity. Indeed, the A5 use has an opening hours restriction from 8am to 11 pm each day and these hours were considered not to be detrimental to residential amenity. The opening hours of the drinking establishment proposed would be restricted by a planning condition and the Premises Licence. It is recommended that opening hours are restricted to 12:00 to 23:00 Sundays to Thursdays and 12:00 to 23:30 on Fridays and Saturdays in order to reduce the impact of noise on nearby residents which are the same hours as specified on the Premises Licence.
- 8.19. Concerns are also raised about customers drinking and smoking outside of the application unit and the potential for this noise to be late at night. Burbage Parish Council has stated that conditions should be imposed to prohibit smoking and drinking in front of the premises. Such a planning condition would not meet the requirements laid out in the Framework but would be conditions imposed on the Premises Licence.
- 8.20. A number of objections raised relate to the potential for anti-social behaviour from the proposed drinking establishment and other drinking establishments in the area. Leicestershire Police's Designing Out Crime Officer has visited the application unit and confirms that he has no objection to the proposed A4 use. A number of recommendations are made on the need to install CCTV cameras, an internal alarm system and secure bin storage areas. These are requirements contained within a Premises Licence and an A4 use cannot operate without first obtaining a Premises Licence. As laid out in paragraph 183 of the Framework, the focus of planning decisions should be on whether proposed development is an acceptable use of land rather than the control of processes which are the subject of separate control regimes. In this case, the conditions on a Premises Licence would address the anti-social behaviour raised by the objectors and so there would be a greater level of control over this proposed A4 use compared to the permitted A5 hot food takeaway use which would not need such a Licence to operate.

- 8.21. Based on the restrictive conditions proposed and the fallback position in that the application unit could trade as a hot food takeaway until 23:00 each evening and the comments received from Environmental Health it is not considered that the proposal would have a significant adverse effect on the amenity of nearby residents. As such the proposal is considered to comply with Policy DM10 of the SADMP

Impact upon highway safety

- 8.22. Policy DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.23. The proposed access to the site is from Church Street, using an existing access through an archway under the residential flats. One parking space has been allocated for this unit and this is for use by an employee. There is no parking provision for users of the public house.
- 8.24. LCC Highways has assessed and considered the application and submitted details and have referred the local planning authority to current standing advice. Although they note that no parking has been proposed, they advise that it is unlikely to be reasonable to resist the proposal on the grounds of a lack of parking provision. Indeed, they note that there is on-street parking within the vicinity of the site that can be used by customers and visitors and that parking restrictions are in place to prevent indiscriminate parking within the area.
- 8.25. Concerns have been raised by local residents and the Parish Council about the lack of availability of parking in the area. Photographic evidence has also been provided of indiscriminate parking. During a site visit no indiscriminate parking was observed and it was noted that parking restrictions are in place outside of the application unit. It is accepted that demand for parking would be different during the day and night. However, there is limited evidence available which would indicate that there is no residual parking capacity for vehicles in the area and that there are high instances of indiscriminate parking as a result of this. In addition to this, the Highway Authority and Police have no objections to the proposal and it would be the Police who would enforce indiscriminate parking.
- 8.26. Being located within a Neighbourhood Centre the application unit is located in a sustainable location with public transport available nearby. The extant consent for a hot food takeaway use could generate more traffic than the proposal for a drinking establishment as customers would want to park closer to the takeaway to collect their hot food. As such it is unlikely that the proposal for a small A4 use would result in a demonstrable increase in traffic over the fall-back use of the site. This is a key factor when considering the impact on highway safety for development.
- 8.27. Concerns have also been raised about pedestrian safety as the footpath outside of the unit is narrow. The footpath outside the entrance doorway is 1.2 metres in width. The entrance doorway is inward opening and there is sufficient width to allow two pedestrians to pass each other. Concerns have also been raised about customers leaving the premises and falling into the road. Church Street has a 20 mph speed limit outside of the application unit and being located on the inside of a sharp bend the average speed of vehicles is likely to be far lower than this. It is considered that the width of the pavement outside of the application unit is sufficient to accommodate the customers generated from the proposed use and that the low speed levels of oncoming vehicles should ensure adequate stopping distances.

- 8.28. Based on the above the proposal would not have a severe adverse impact upon highway or pedestrian safety and would therefore be in accordance with Policies DM17 and DM18 of the SADMP.

Other Considerations

- 8.29. Concerns have been raised that smokers standing at the rear of the building would block the fire escape for the apartments above. The site plan and proposed rear elevation plan submitted with the application demonstrates that there is sufficient space to the rear of the application unit so that the escape route to the apartments is not impeded.

9. Equality Implications

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

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

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

10. Conclusion

- 10.1. The proposed unit lies within a Neighbourhood Centre and there would be no conflict with Policy DM22 of the SADMP. Due to the limited amount of alterations required to its external elevations, the character and appearance of the building would be retained and the significance of the Burbage Conservation Area would be preserved.

- 10.2. In view of the restrictive conditions proposed and the fallback position in that the application unit could trade as a hot food takeaway until 23:00 each evening, it is not considered that the proposal would have a significant adverse effect on the amenity of nearby residents and it is assessed that there would be no intensification of the use of the site and the proposal would not have a severe adverse impact upon highway or pedestrian safety. The proposal is considered to be in accordance with Policies DM1, DM10, DM11, DM12, DM17, DM18, DM22 and DM23 of the SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

11.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report.

11.2. Conditions and Reasons

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

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

2. The development hereby permitted shall not be carried out otherwise than in accordance with the submitted application details, as follows: Site Location Plan, Drw No: 3138/A/010 Rev L, Proposed Front Elevation, Proposed Rear Elevation and Block Plan received by the local planning authority on 25 April 2019 and the Environmental Noise Assessment Report received by the local planning authority on 22 September 2016.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. The proposed public house drinking establishment shall not be open to the public outside the following hours:

12.00 – 2300 Sunday – Thursday

12:00 – 2330 Friday – Saturday

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

4. The window fitted to the existing boarded up section on the front elevation shall be of the same specification as the adjoining shopfront and the opening shall be inward opening.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies DPD.

5. Hot food shall not be prepared or served at the premises until a scheme for ventilation of the premises, which shall include the installation method, maintenance and management has been submitted to and approved in writing by the local planning authority. The approved details shall then be fully implemented prior to the preparation and serving of any hot food and thereafter maintained as such at all times.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

6. The level of noise emitted from the external plant/equipment from the unit hereby approved shall be in accordance with the noise levels as outlined in Section 7 – Noise Mitigation of the submitted Environmental Noise Assessment Report received by the local planning authority on 22 September 2016 for outline permission ref: 16/00885/FUL.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

7. Before first use of the unit as an A4 use, a scheme shall be submitted to the local planning authority for their approval in writing to ensure adequate provision for waste and recycling storage of containers and collection from the site. The details should address accessibility to storage facilities and confirm adequate space is provided to facilitate collection of waste via a registered waste carrier.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

11.3. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. A separate planning application may be required if the details submitted under condition 5 require planning permission.

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Planning Committee 23 July 2019
Report of the Planning Manager

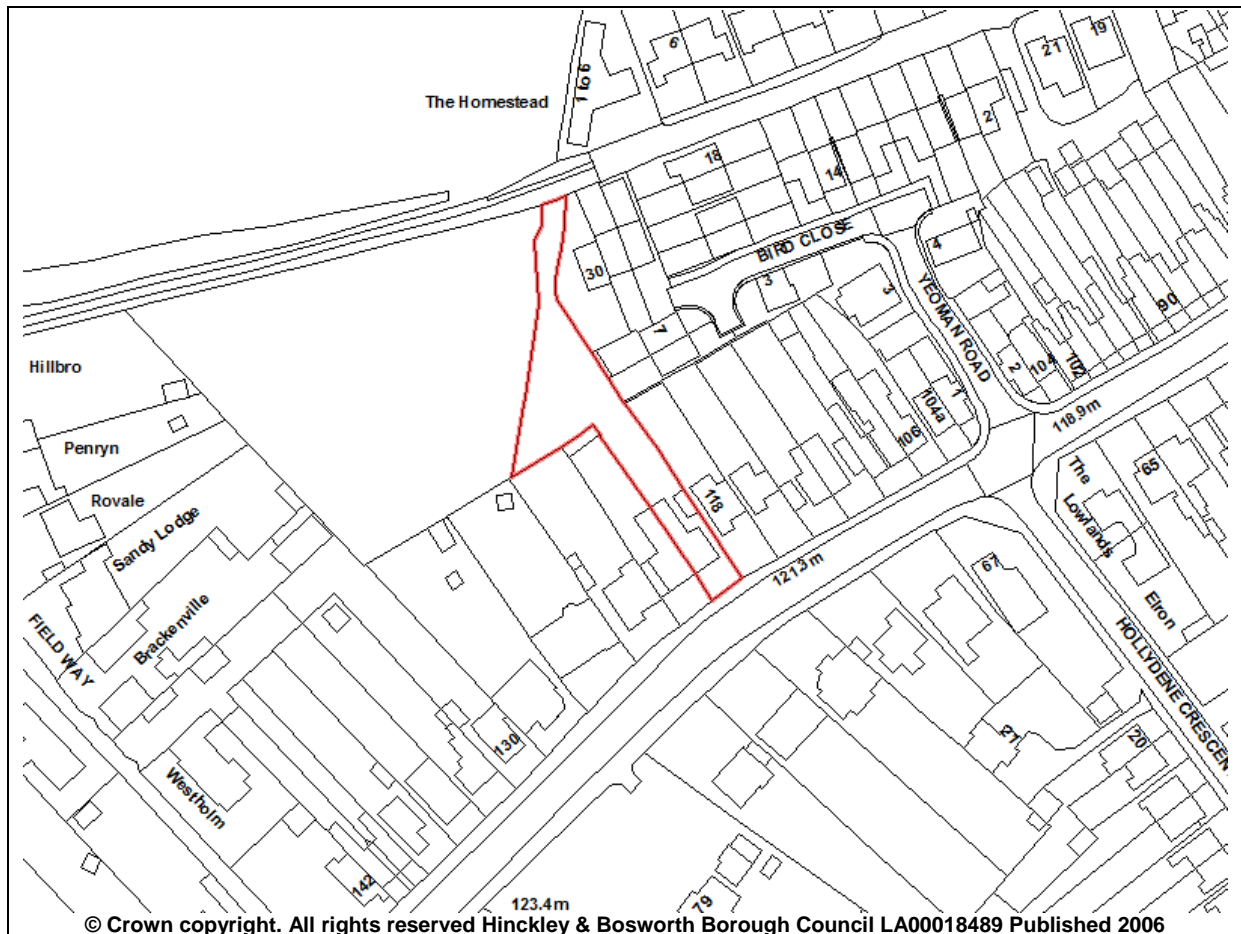
Planning Ref: 19/00611/HOU
Applicant: Sam Hollows
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: 120 Hinckley Road Earl Shilton

Proposal: Detached garage



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

- 2.1. This application seeks planning permission for a detached garage in the rear garden of 120 Hinckley Road, Earl Shilton. The garage would be sited in the north-east corner of the garden, abutting the boundaries of the dwelling's rear garden.
- 2.2. It is intended for the garage to house a motor boat and two motor vehicles. The garage would be reached using the existing access at the front of the host dwelling, off Hinckley Road. The entrance door into the garage would face towards this.
- 2.3. Amendments to the scale and mass of the garage were received during the course of the application, to better reflect its intended use.

3. Description of the Site and Surrounding Area

- 3.1. The application site comprises a semi-detached dwelling in the settlement boundary of Earl Shilton. The property is finished in red brick, grey roof tiles and grey UPVC windows and doors. To the front of the site is parking for approximately 3 vehicles.
- 3.2. Access to the rear of the site is open along the east elevation of the host dwelling, which vehicles are currently parked along. The residential garden space to the rear of the host dwelling is approximately 31 metres in length, and is bordered by high close boarded fencing to all sides. The line of fencing to the rear of this space marks a separation between the garden and a small yard at the back of the site, which forms part of the applicant's ownership accessed off Heath Lane South. Although included within the red line of the site, this area of land is not deemed to function as garden space and thus is not considered as part of the residential curtilage of the site. Land levels decrease from the front to the rear of the site, the levels to the front being considerably higher than those in the rear yard.
- 3.3. Rear gardens of neighbouring properties are of a similar length and there are examples of existing large outbuildings within the immediate vicinity, e.g. at no. 122 Hinckley Road, which is situated to the south west of the application site. Properties within the vicinity are of varied design and appearance.
- 3.4. A planning application for the erection of 4 flats in the rear yard is currently under consideration (19/00674/FUL).

4. Relevant Planning History

19/00674/FUL	Erection of 4 flats (resubmission of 18/00618/FUL)	Pending consideration	
18/00618/FUL	Erection of four flats	Refused	15.08.2018

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.
- 5.2. Seven letters of objection from separate addresses and one letter neither objecting or supporting the proposed development have been received which raise the following concerns:
- 1) Potential for non-residential use
 - 2) Intensification of existing commercial activity to the rear of the property and its noise impacts
 - 3) Intensification of Heath Lane access onto the site and the potential traffic and pedestrian safety impacts
 - 4) Tree within falling distance of the building
 - 5) Land levels
 - 6) Incompatible with residential setting

6. Consultation

- 6.1. No objections were received from Earl Shilton Parish Council. A condition has been recommended in regard to ensuring the proposed garage is only used for purposes incidental to the use of the dwellinghouse.

7. Policy

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

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

Assessment against strategic planning policies

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).

8.4. The proposed garage is for a property located within the settlement boundary of Earl Shilton. As such, there is a presumption in favour of sustainable development under Policy DM1 of the SADMP. Earl Shilton is an identified urban area whereby the principle of householder development is considered acceptable, subject to all other material planning considerations being acceptable.

Design and impact upon the character of the area

8.5. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials and architectural features. The proposal is felt to comply with these requirements, according to the justification given below.

8.6. The proposed garage would be located in the north-east corner of the rear garden serving the host dwelling. The applicant intends for the garage to house his vehicles and boat, to provide a secure storage space and reduce the number of vehicles parked at the front of his property.

8.7. The garage originally proposed measured 14 metres in depth, 6 metres in width, 4.7 metres to the ridge and 2.4 metres to the eaves (approx.). Concerns were raised in regard to the need for this scale and mass, and thus amended plans were received reducing the depth of the garage to 12.8 metres and its ridge height to 4.3 metres.

A planning statement was also received specifying the dimensions of the motor boat and vehicles to be housed by the garage, and thus the need for the scale and mass proposed. It is these amended plans which are assessed in this application.

- 8.8. The amendments and justification provided are felt to overcome officer concerns in regard to the need for the garage's size. The planning statement also seeks to satisfy concerns raised by members of the public regarding the commercial use for the garage, by confirming its domestic storage purpose.
- 8.9. The garage would be reached from the front of the host dwelling, by the existing vehicular access to the front of the application site off Hinckley Road. The garage would not be accessed via the rear yard, and thus would not intensify existing vehicular traffic on Heath Lane South or cause harm to pedestrian safety.
- 8.10. The proposed garage would be constructed using suitable materials and would feature a pitched roof to complement the existing character of the host dwelling. Although visible from the highway, by virtue of its siting the proposed garage would be sufficiently set back from the host dwelling and therefore would be a subordinate addition to the site, with no adverse impacts upon the existing street scene's visual amenity.
- 8.11. It is concluded that the proposed development complies within Policy DM10 of the SADMP in this regard.

Impact upon neighbouring residential amenity

- 8.12. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties. The proposed development is felt to fulfil this aspect of Policy DM10, deduced from the justification given below.
- 8.13. The proposed garage would be set in from the shared boundary with no.122 Hinckley Road by approximately 2.5 metres and would pitch away from this neighbouring site. Existing high fencing also marks this boundary. Thus, it is not considered that the proposed garage would have any significant overbearing impacts upon this neighbour.
- 8.14. The proposed garage would abut the boundary shared within no. 118 Hinckley Road, the neighbouring property to the east of the application site. Despite the ridge height proposed, the eaves of the garage would be considerably lower at approximately 2.4 metres and the roof would still pitch away from this neighbour. High boundary fencing also borders this shared boundary and would screen the majority of the development up to eaves level. Due to the varying levels across the site, a condition shall be imposed should planning permission be granted to ensure that the garage's finished floor level aligns with the lower levels at the back of the site, to ensure no adverse overbearing relationship between the garage and the residential amenity of no.118. It is according to this latter measure and the former assessment that the proposed garage would not unduly overbear no.118, and thus does not warrant a refusal on such grounds.
- 8.15. According to the proposed garage's siting at the end of the host dwelling's garden, vehicular activity across the site would increase. Although this movement would be along the shared boundary with no.118, given the domestic use of the site and the garage, the frequency of movement would not be continuous, and therefore any noise impact upon the residential amenity of no.118 is not anticipated to be severe.
- 8.16. In terms of the amenity of current and future occupants of the host dwelling, it is acknowledged that the proposed garage would take up a large proportion of the existing garden space on site. Nevertheless, given the garden's significant length, it is felt that the proposed development would still retain an acceptable level of garden

space to sufficiently serve the amenities of any current and future occupants of no.120 Hinckley Road.

- 8.17. The proposed development is concluded as complying with Policy DM10 of the SADMP in this regard.

Other matters

- 8.18. Concern for any trees within falling distance of the proposed garage is a civil matter and does not prejudice the determination of this application.

9. Equality Implications

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

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

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

10. Conclusion

- 10.1. The proposed development is for a property located within the settlement boundary of Earl Shilton. As such, there is a presumption in favour of sustainable development under Policy DM1 of the SADMP, as long as the proposal is in accordance with the relevant policies of the SADMP.

- 10.2. The proposed development would respect the character and appearance of the host dwelling and surrounding area, and would not cause any adverse impacts on the amenity of occupants at no. 118, 122, or those residing at the host dwelling. On this basis, the proposal is considered to be in accordance with Policy DM1 and DM10 of the SADMP, and is recommended for approval subject to conditions.

11. Recommendation

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

- Planning conditions outlined at the end of this report.

11.2. Conditions and Reasons

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan, Proposed Block Plan, Section, Floor Plan and Elevations
Drg No: 1413/REV-A received by the Local Planning Authority on 05 July 2019.

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

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

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

4. The materials to be used on the external elevations of the proposed garage shall accord with those detailed in the submitted application form, received by the Local Planning Authority on 31 May 2019.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11.3. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Rainwater from the detached garage roof should be positively drained into a suitable water butt, soakaway or domestic drainage system, and not be permitted to discharge directly onto the surface of the application site and neighbouring properties.

PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 12.07.19

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	Appeal Valid	DATES
	CG	19/00031/FUL (PINS Ref 3232915)	WR	Nine Points Property Ltd c/o Agent	146 Hinckley Road Barwell (Change of use from children's day nursery to a residential care home for children with education facility)	Appeal Valid Awaiting Start Date	10.07.19
	GS	19/00113/HOU (PINS Ref 3232751)	WR	Wesley Abdulai 69 Seaforth Drive Hinckley	69 Seaforth Drive Hinckley (First floor front extension (retrospective))	Appeal Valid Awaiting Start Date	08.07.19
	SW	19/00302/OUT	WR	Mr Mark Whitmore Bramble Paddock Breach Lane Earl Shilton LE9 7FB	Land Opposite 22-24 Merrylees Roads Newbold Heath Newbold Verdon (Detached 4 bedroom dwelling (Outline with all matters reserved))	Appeal Valid Awaiting Start Date	20.06.19
19/00016/PP	AC	19/00303/FUL (PINS REF 3229645)	WR	Ms Lisette Sampey 17 Main Street Higham on the Hill	17 Main Street Higham On The Hill Nuneaton (Demolition of existing workshop, garage and wall, subdivision of plot and erection of one detached dwelling, single storey front extension to existing dwelling and new access to serve existing dwelling)	Start Date Final Comments	31.05.19 19.07.19
19/00019/PP	JB	18/00732/FUL (PINS ref 3218401)	IH	Statue Homes Limited The Old House Farm Sutton Lane Cadeby Nuneaton	Kyngs Golf And Country Club Station Road Market Bosworth (Erection of multi-functional recreational building formation of a new car parking areas, new access roads and the proposed erection of 15 golf holiday homes and all associated ancillary works and landscaping (Resubmission))	Start Date Statement of Case Hearing Date (TBC) Co-joined with 3229633	28.05.19 18.07.19 13.08.19

19/00021/PP	JB	19/00230/FUL (PINS 3229633)	IH	Statue Homes Limited The Old House Farm Sutton Lane Cadeby Nuneaton	Kyngs Golf And Country Club Station Road Market Bosworth (Change of use of vacant outbuilding to No. 1 holiday lodge and alterations to existing vehicular access onto Station Road to include the extension of the access drive)	Start Date Statement of Case Hearing Date (TBC) Co-joined with 3218401	13.06.19 18.07.19 13.08.19
19/00022/NONDET	RW	19/00213/CONDIT (PINS REF 3229530)	WR	Centre Estates Limited 99 Hinckley Road Leicester	Land Off Paddock Way Hinckley (Application Reference Number: 17/00115/FUL (Appeal Reference: APP/K2420/W/17/3189810) Date of Decision: 13/09/2018 Condition Number(s): 2)	Start Date Statement of Case Final Comments	21.06.19 26.07.19 09.08.19
	TW	19/00174/HOU (PINS Ref 3229307)	WR	Mr & Mrs Marcus & Gill O'Sullivan 122 Ashby Road Hinckley	122 Ashby Road Hinckley (Erection of a Car Port to front of property (Retrospective))	Appeal Valid Awaiting Start Date	22.05.19
19/00020/PP	JB	18/01104/FUL (PINS Ref 3228815)	WR	Mr Lee Brockhouse A5 Aquatics Meadowcroft Farm Watling Street Nuneaton	Land North Of Watling Street Nuneaton (Erection of dwelling, detached garage, boat house, football pitch, creation of access and associated landscaping (re- submission of 18/00207/FUL))	Start Date Statement of Case Final Comments	13.06.19 18.07.19 01.08.19
19/00019/FTPP	RW	18/01259/HOU (PINS Ref 3228184)	WR	Mr & Mrs KB Jones 7 Cadeby Court Sutton Lane Cadeby	7 Cadeby Court Sutton Lane Cadeby (Single storey rear extension and timber framed open porch to front elevation of dwelling (re-submitted scheme))	Start Date Awaiting Decision	12.06.19
19/00014/NONDET	RW	18/01266/FUL (PINS Ref 3226202)	WR	NS & PS Developments Ltd c/o E-Countant The Fort Offices Artillery Business Park Oswestry	Barrack House The Barracks Barwell (Part demolition and conversion of existing factory to 4 apartments and erection of 4 new houses and 9 new apartments)	Start Date Awaiting Decision	07.05.19
	TW	18/00247/UNHOUS (PINS Ref 3225956)	WR	Miss Helen Crouch 49 Main Street, Bagworth	49 Main Street Bagworth (Creation of a balcony)	Appeal Valid Awaiting Start Date	18.06.19

19/00012/FTPP	TW	18/01098/HOU (PINS Ref 3224500)	WR	Mr Steve Benson c/o Agent David Ives 160 Birstall Road Birstall Leicester LE4 4DF	40 Highfields Thornton Coalville Leicestershire LE67 1AE	Start Date Awaiting Decision	02.04.19
	TW	18/00268/UNUSES (PINS Ref 3222721)	WR	Mr Andrew Charles Swanbourne Dawsons Lane Barwell	Land East Of The Enterprise Centre Dawsons Lane Barwell (Siting of 2 storage containers ancillary to the existing equestrian use)	Appeal Valid Awaiting Start Date	29.03.19
	AC	18/01051/FUL (PINS Ref 3222720)	WR	Mr Andrew Charles Swanbourne Dawsons Lane Barwell	Land East Of The Enterprise Centre Dawsons Lane Barwell (Siting of 2 storage containers ancillary to the existing equestrian use)	Appeal Valid Awaiting Start Date	29.03.19
19/00017/PP	CG	18/00302/FUL (PINS Ref 3222266)	IH	Persimmon Homes North Midlands Ltd, Davidson House Unit 17c Meridian East, Meridian Business Park Leicester	Land South Of Amber Way Burbage (Erection of 40 dwellings and associated infrastructure)	Start Date Hearing Date - 2 days (TBC)	31.05.19 20-21.08.19
	CJ	18/01151/HOU (PINS Ref 3221766)	WR	Mr Richard Seabrook 25 Warwick Gardens Hinckley	25 Warwick Gardens Hinckley (Erection of fence adjacent to highway above 1 metre)	Appeal Valid Awaiting Start Date	07.02.19
	CJ	18/00344/UNHOUS (PINS Ref 3221767)	WR	Mr Richard Seabrook 25 Warwick Gardens Hinckley	25 Warwick Gardens Hinckley (Erection of fence adjacent to highway above 1 metre)	Appeal Valid Awaiting Start Date	09.04.19

Decisions Received

19/00018/FTPP	GS	19/00057/HOU (PINS Ref 3229835)	WR	Mr E Sutton 21 Peters Avenue Newbold Verdon	Kindle House 21 Peters Avenue Newbold Verdon (Single storey side extension, new pitched roof over existing porch and canopy along front elevation)	DISMISSED	08.07.19
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19/00002/ENF	RH	18/00165/UNBLDS (PINS Ref 3209195)	PI	Mr Nigel Salt Salt Construction Limited 304 Leicester Road Wigston	Land South Cadeby Hall Main Street Cadeby (Unauthorised erection of a dwelling)	DISMISSED	08.07.19
19/00023/COND	CG	19/00078/CONDIT (PINS Ref 3226116)	WR	SPS Groundworks Ltd 7 Cooper Lane Ratby	9 Ratby Lane Markfield (Variation of Conditions 2 and 3 of planning permission 18/01043/FUL for external alterations including changes to roof form, fenestration and materials)	ALLOWED	04.07.19
19/00006/PP	SW	18/00279/OUT (PINS Ref 3222850)	PI	Heart of England Co-Operative Society Whittle House Foleshill Enterprise Park Courtaulds Way Coventry	Land At Crabtree Farm Hinckley Road Barwell (Erection of up to 25 dwellings, provision of open space and change of use of land for new cemetery and associated shelter (Outline - access only))	ALLOWED	02.07.19
19/00011/FTPP	GS	18/00898/HOU (PINS Ref 3221376)	WR	Mr Kane O'Donnell 130 Markfield Road Ratby Leicester LE6 0LQ	130 Markfield Road Ratby Leicester (Detached garage to serve new dwelling)	DISMISSED	25.06.19

Appeal Decisions - 1 April -12 July 2019

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
13	3	10	0	0	3	0	8	0	0	2	0	0	0

Enforcement Appeal Decisions

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn
2	0	2	0	0