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Hinckley & Bosworth
Borough Council

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

Date: 27 January 2020

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 member,

There will be a meeting of the **PLANNING COMMITTEE** in the De Montfort Suite - Hub on **TUESDAY, 4 FEBRUARY 2020** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

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

Rebecca Owen
Democratic Services Manager

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- *There are two escape routes from the Council Chamber – at the side and rear. Leave via the door closest to you.*
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- **Do not** use the lifts.
- **Do not** stop to collect belongings.

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Thank you

PLANNING COMMITTEE - 4 FEBRUARY 2020

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 6)

To confirm the minutes of the meeting held on 7 January 2020.

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. 19/00947/OUT - LAND OFF SKETCHLEY LANE, BURBAGE (Pages 7 - 48)

Application for development comprising of up to 140 dwellings and extension of Sketchley Meadows Business Park for up to 30,000 sq m (322,920 sq ft) gross external floor space for Class B2 General Industrial/Class B8 Warehousing and Distribution use with associated means of access from Watling Drive and Sketchley Lane, associated internal estate roads, parking, landscaping, open space and sustainable drainage. (Outline - including access).

8. 19/00742/FUL - 42 STATION ROAD, EARL SHILTON (Pages 49 - 62)

Application for erection of four apartments.

9. 19/00680/OUT - SPRINGFIELD RIDING SCHOOL, GROBY ROAD, RATBY (Pages 63 - 94)

Application for residential development up to 168 dwellings (Outline - access only) with associated means of access onto Markfield Road and Groby Road, car parking, new footpath links, amenity space and landscaping.

10. 19/01035/FUL - LAND ADJACENT TO 1 BACK LANE, MARKET BOSWORTH (Pages 95 - 108)

Application for erection of 1 No. detached dwelling.

11. 19/00607/FUL - LAND WEST OF BREACH LANE, EARL SHILTON (Pages 109 - 128)

Application for erection of 3 detached dwellings.

12. 19/00496/FUL - 75A NEWBOLD ROAD, BARLESTONE (Pages 129 - 148)
Application for erection of 8 dwellings and associated access.
13. APPEALS PROGRESS (Pages 149 - 154)
To report on progress relating to various appeals.
14. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

7 JANUARY 2020 AT 6.30 PM

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

Also in attendance: Councillor MA Cook

Officers in attendance: Matthew Bowers, Jenny Brader, Rhiannon Hill, Rebecca Owen, Michael Rice and Nicola Smith

230 APOLOGIES AND SUBSTITUTIONS

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

231 MINUTES

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

RESOLVED – the minutes of the meeting held on 12 November 2019 be confirmed and signed by the chairman.

232 DECLARATIONS OF INTEREST

Councillors RG Allen and CM Allen declared non-pecuniary interests in applications 19/00674/FUL and 19/00742/FUL as members of Earl Shilton Town Council's Planning Committee which had considered the applications.

Councillors Lynch and Walker declared non-pecuniary interests in application 19/01190/HOU as members of Burbage Parish Council's Planning Committee which had considered the application.

233 DECISIONS DELEGATED AT PREVIOUS MEETING

It was noted that the decision in relation to application 19/00901/FUL had been issued.

234 19/01011/OUT - LAND SOUTH OF CUNNERY CLOSE, BARLESTONE

Application for residential development for up to 176 dwellings with public open space, landscaping and sustainable drainage systems (outline – access only).

Notwithstanding the officer's recommendation that permission be granted, some members felt that the development was out of keeping with the character of the area. It was MOVED by Councillor WJ Crooks and SECONDED by Councillor Cartwright that the

application should be refused. The meeting adjourned at 7.10pm for the mover and seconder to draft their reasons for refusal and reconvened at 7.18pm.

Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – permission be refused for the following reasons:

- (i) The development would be out of keeping with the character of the area and therefore, contrary to policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD;
- (ii) The site is accessed via an unclassified road with on-street parking and the nearby junctions are over capacity, the proposal is therefore detrimental to highway safety contrary to policy DM17 of the Site Allocations and Development Management Policies DPD.

235 19/00496/FUL - 75A NEWBOLD ROAD, BARLESTONE

Application for erection of 8 dwellings and associated access.

Whilst in support of the officer's recommendation that the application be permitted, concern was expressed about drainage and the lack of continuous footpath outside of the site. It was MOVED by Councillor Cartwright and SECONDED by Councillor RG Allen that it be delegated to the Planning Manager to approve the application subject to a footpath being deliverable and an additional condition in relation to submitting details of surface water treatment and, should delivery of a footpath not be deliverable, the application be brought back to the Planning Committee for determination. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – the Planning Manager be granted delegated authority to approve permission subject to:

- (i) The conditions contained in the officer's report;
- (ii) An additional condition in relation to surface water drainage;
- (iii) A condition requiring provision of a footpath along the frontage of the site;
- (iv) An additional note to applicant regarding notifying the coal authority.

236 19/01013/FUL - LAND SOUTH OF PINWOOD DRIVE, MARKFIELD

Application for erection of ten bungalows (extension to Markfield Court Retirement Village).

Following a discussion on the possibilities of including a condition that residents of the proposed properties have use of the existing on-site facilities, the meeting adjourned at 8.29pm to seek advice and reconvened at 8.35pm.

It was MOVED by Councillor RG Allen and SECONDED by Councillor Boothby that permission be granted with an additional condition that the residents of the new properties will have access to the facilities on site. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – permission be granted subject to:

- (i) Completion within three months of this resolution to a S106 agreement to secure the following obligations:
 - a. 40% of the total number of the bungalows shall be affordable units and shall be delivered on site with a mix of 75% social or affordable rent and 25% intermediate tenure. The bungalows shall be 2 bed 4 person units
 - b. Contribution towards library services of £300
- (ii) The conditions contained in the officer's report;
- (iii) Additional conditions requiring:
 - a. that residents of the new properties have access to the existing facilities;
 - b. that the residents have access to fibre optic broadband;
 - c. the retention of the hedgerow across the frontage of the site.

Councillor Lay left the meeting at 8.40pm.

237 19/01212/OUT - LAND REAR OF 237 MAIN STREET, THORNTON

Application for erection of one dwelling (outline – all matters reserved).

It was moved by Councillor Roberts, seconded by Councillor Boothby and

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

238 19/00674/FUL - LAND TO THE WEST OF HEATH LANE SOUTH, EARL SHILTON

Application for erection of four flats (resubmission of 18/00618/FUL).

It was MOVED by Councillor RG Allen and SECONDED by Councillor CM Allen that permission be refused. Following further discussion, Councillor RG Allen and Councillor CM Allen withdrew the proposal.

It was MOVED by Councillor RG Allen and SECONDED by Councillor Roberts that permission be granted with an additional condition requiring a hard boundary between the site and the properties on Hinckley Road. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – permission be granted subject to the conditions contained in the officer's report and an additional condition requiring a hard boundary between the site and the properties on Hinckley Road.

239 19/00714/FUL - FORGE BUNGALOW, MAIN STREET, CADEBY

Application for demolition of existing bungalow and erection of two dwellings.

Notwithstanding the officer's recommendation that permission be granted, some members felt that the proposal constituted over development of the site. It was MOVED

by Councillor Cartwright and **SECONDED** by Councillor Roberts that permission be refused for this reason.

At this juncture, it having reached 9.30pm, it was moved by Councillor MJ Crooks, seconded by Councillor Findlay and

RESOLVED – the meeting be permitted to continue in accordance with council procedure rule 8.

Returning to Councillor Cartwright's motion to refuse permission, which had been seconded by Councillor Roberts, the motion was put to the vote and **CARRIED**. It was therefore

RESOLVED – permission be refused due to the proposal resulting in the overdevelopment of the site contrary to policy DM10 of the Site Allocations and Development Management Policies DPD.

240 **19/01103/HOU - 32 NORTHUMBERLAND AVENUE, MARKET BOSWORTH, NUNEATON**

Application for single storey side extension and front porch extension.

Notwithstanding the officer's recommendation that permission be granted, some members felt that the proposed development would be overbearing in terms of its height and would result in loss of light and would be over-development of the site. It was **MOVED** by Councillor Roberts and **SECONDED** by Councillor Gibbens that permission be refused for these reasons. Upon being put to the vote, the motion was **CARRIED** and it was

RESOLVED – permission be refused due to the overbearing nature of the development in terms of its height and resulting loss of light, breaching the 45 degree rule which would have an adverse impact on residents, and the overdevelopment of the site contrary to policy DM10 of the Site Allocations and Development Management Policies DPD.

241 **19/01111/HOU - 35 ARNOLDS CRESCENT, NEWBOLD VERDON**

Application for two storey side and front extension with single storey side extension.

It was moved by Councillor Findlay, seconded by Councillor Lynch and

RESOLVED –

- (i) Permission be granted subject to the conditions contained in the officer's report;
- (ii) The Planning Manager be granted powers to determine the final detail of planning conditions.

242 **19/00742/FUL - 42 STATION ROAD, EARL SHILTON**

Application for erection of four apartments.

Concern was expressed about lack of parking on site and restrictions for on street parking and in local car parks. It was **MOVED** by Councillor RG Allen and **SECONDED** by Councillor Gibbens that the application be deferred to investigate the possibility of

requiring the applicant to provide parking permits for the nearby car park. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – the application be deferred.

243 19/01190/HOU - 1A STRETTON CLOSE, BURBAGE

Application for extensions and alterations to dwelling comprising single-storey side extension, front porch and replacement detached garage.

On the motion of Councillor RG Allen, seconded by Councillor Lynch, it was

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

244 MAJOR PROJECTS UPDATE

Members received a report which provided an update on major projects. Concern was expressed in relation to Leicestershire County Council's report about the Barwell SUE and it was noted that a meeting had been requested. It was moved by Councillor WJ Crooks, seconded by Councillor Flemming and

RESOLVED – the report be noted.

245 PLANNING ENFORCEMENT UPDATE

Members were updated on enforcement cases. A member asked for a briefing note on successful cases, with photographs.

RESOLVED – the report be noted.

246 APPEALS PROGRESS

The committee received an update on appeals.

RESOLVED – the report be noted.

(The Meeting closed at 10.30 pm)

CHAIRMAN

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**Planning Committee 4 February 2020
Report of the Planning Manager**

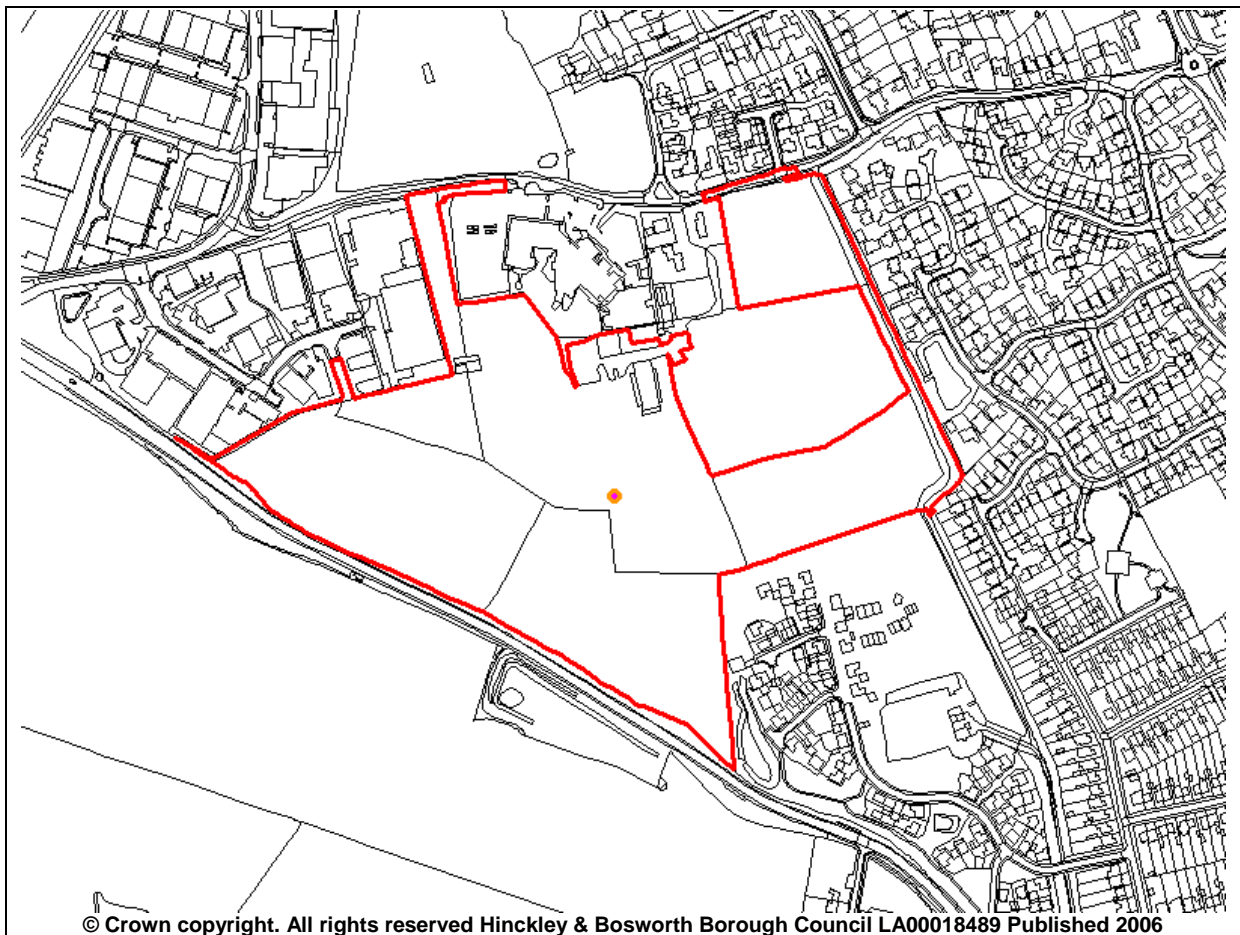
Planning Ref: 19/00947/OUT
Applicant: Barwood Development Securities Ltd
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Land Off Sketchley Lane Burbage

Proposal: Development comprising of up to 140 dwellings and extension of Sketchley Meadows Business Park for up to 30,000 sq m (322,920 sq ft) gross external floor space for Class B2 General Industrial/Class B8 Warehousing and Distribution use with associated means of access from Watling Drive and Sketchley Lane, associated internal estate roads, parking, landscaping, open space and sustainable drainage (Outline - including access)



1. Recommendations

1.1. Grant planning permission subject to:

- The completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - 20% Affordable Housing, 75% affordable rented and 25% shared ownership
 - £4200 for library facilities at Hinckley Library
 - £616,864.00 for education

- £85,183.92 Health Care Provision (GP Practices)
 - £289,192 off-site Play and Open Space provision and maintenance
 - On-site Open Space requirement of at least 500m2 of equipped play area
 - Provision of opportunities for apprenticeships and work experience and employment and skills related training during the construction of the development.
 - Any Highway Contributions that may be requested and which are deemed to be CIL compliant
 - Planning conditions outlined at the end of this report.
- 1.2. That the Planning Manager be given powers to determine the final detail of planning conditions.
- 1.3. That the Planning Manager 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 for up to 140 dwellings, and up to 30,000sqm of commercial space with associated public open space, landscaping and infrastructure. All detailed matters are reserved for later determination, except access. The site has an area of approximately 15.2 hectares. A detailed access plan has been submitted which shows a new road off Sketchley Lane to service the residential element with the commercial element accessed via Watling Drive, which provides a direct connection to the roundabout on the A5.
- 2.2. As the application is in outline format, the proposed housing mix is unknown. However, the applicant has identified that 20% of the housing to be provided would be affordable housing and so if 140 dwellings were to be provided this would result in 112 market dwellings with 28 dwellings being affordable with a mix of 21 dwellings for social rent and 7 intermediate dwellings for shared ownership.
- 2.3. An indicative development framework and a parameters plan have been provided. The indicative framework shows the layout of up to 140 dwellings and 30,000sqm of commercial floorspace as well as the open space and attenuation features.
- 2.4. The proposal includes areas of accessible natural green space in excised of 5 hectares and a Local Equipped Area of Play (LEAP) 500sqm in area. The informal open space includes planting, pedestrian links and footpaths connecting into existing footpaths as well as woodland planting and enhancement to existing retained field boundaries. The proposed LEAP is shown on the development framework central to the site, with the public open space extending centrally through the proposed residential area of the site.
- 2.5. The application is supported by the following technical documents:-
- Design and Access Statement
 - Soils and agricultural quality report
 - Arboricultural Impact Assessment
 - Topographical Survey
 - Transport Assessment
 - Trial Trenching Report
 - Framework Travel Plan
 - Planning Statement
 - Noise Report
 - Landscape and Visual Impact Assessment
 - Illustrative Landscape Strategy

- Archaeological Geophysical Survey Report
- Ecological Impact Assessment
- Utilities Assessment
- Flood Risk Assessment
- Employment Market Report
- Economic Benefits
- Employment land Sequential Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site comprises of approximately 15.2 hectares, situated to the South of Sketchley Lane, Burbage. To the north, the site is bound by Sketchley Grange Hotel, and Sketchley Meadows Industrial Estate. To the East, the application site is bound by residential development, and to the south east, is a newly constructed development by David Wilson Homes (Planning reference 13/00529/OUT), with A5 Watling Street beyond, forming the south boundary.
- 3.2. The application site comprises of a number of irregular agricultural fields, separated by mature hedgerows and trees. The site gently slopes south towards the A5 boundary, with levels sloping from approximately 113m above Ordance Datum (aOD) to 100m aOD. An existing Bridelway U67 crosses north to south through the eastern portion of the site, from Sketchley Lane, Burbage to Watling Street, east of Stretton House, with a branch to Sketchley Lane adjacent to the north west boundary with Troon Way. Although the bridle path runs through the site, access along this route has been impaired.
- 3.3. The application site is located within Landscape Character Area F, Burbage Common Rolling Farmland, in the Landscape Character Assessment (2017). One of the key characteristics of this area, which is shared with the application site, is medium to large scale rectilinear field pattern bounded by low hedgerows and post and wire fences.

4. Relevant Planning History

19/00811/SCOPE	EIA screening Opinion for proposed development	Screening Opinion Issued	08.08.2019
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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. 164 objections have been received raising the following objections:-
- 1) The existing balancing lagoon in Troon Way regularly fill with water after heavy rain and releases water onto the application site, the drains on Troon Way regularly back up and overflow, development on this land will cause flooding Troon Way.
 - 2) A large commercial facility is already being built along the A5.
 - 3) The A5 is not sufficient to accommodate the increase in HGVs
 - 4) Large increase in population will increase the demand on fire/police and ambulance services.
 - 5) Increase population will result in an increase in crime.
 - 6) Request for traffic calming in the area has already been rejected by Highways
 - 7) Impact upon GP services
 - 8) There is sufficient housing stock in Burbage to service the local area
 - 9) The local secondary school will be unable to accommodate the influx of families.

- 10) The disruption from the development of 'The Spinneys' was unacceptable, with breaches of working and delivery hour conditions.
- 11) The units will be situated within metres of the existing dwellings with minimal planting in between.
- 12) It will take years for the planting strategy to mature
- 13) The development will impact upon the quality of life of surrounding residents
- 14) This is the last significant area of green space between Hinckley and the A5, and is a natural barrier for Burbage residents
- 15) Commercial units will have adverse impact upon residential dwellings with the use of artificial lighting and the sound associated vehicles.
- 16) The site helps to reduce the impact of air pollution.
- 17) It will only create low skilled jobs with lower levels of pay, should attract more skilled labour force.
- 18) Will lead to pressure on all schools
- 19) There are existing empty units which need occupying prior to more being developed.
- 20) Herald Way is already used as a rat run when Hinckley is congested.
- 21) Sketchley Hill (Rugby Road) is mostly impassable and dangerous after snowfall.
- 22) Footpath along Rugby Road is not safe and dangerous for pedestrian and provides no suitable crossing, which is a danger for children accessing local schools.
- 23) It is a beautiful and cultural part of history within the village and this country.
- 24) Detrimental to wildlife
- 25) The land is greenbelt and the views should be protected.
- 26) Purchased the house due to the views
- 27) The Leicestershire Strategic growth plan does not support development in this area.
- 28) Emerging Burbage Plan does not support development in this area. It is protected green wedge that forms part of the proposed site.
- 29) Outside settlement boundary
- 30) Historical agricultural interest.
- 31) Scale and height of the proposed warehouses are inappropriate and out of keeping with the area.
- 32) Development would be overbearing.
- 33) 5 year housing land supply already met
- 34) There is ancient ridge and furrow on site
- 35) Increase in parking
- 36) Burbage is losing its village feel
- 37) Loss of house value
- 38) 3 storey homes are not representative of the wider character
- 39) Housing mass is dense
- 40) Core strategy allocated land for 295 houses, with focus to the north, this has already been achieved, therefore no need.
- 41) Does not address deficiencies in the quality, quantity and accessibility of green space and play provision; protect and preserve open landscape to the east of the village; and delivery the green infrastructure network. Contrary to Core Strategy.
- 42) Access road only has a path on one side, opposite the access with no planned crossing. Most houses have up to 2 cars, which would result in 280 vehicles to the narrow road over congested local roads, development therefore contrary to Policy DM3, DM17 and DM18 of the SADMP.
- 43) The play areas are in an area confirmed to flood, adding housing will prevent absorption of the of water and increase flood risk contrary to DM7.

- 44) A5 already classed as over used, this development will add to an existing problem
- 45) Area classed as E1 intrinsically dark, after the housing and warehouses are built they'll be light every night from street lights and 24 hour warehouses. Contrary to policy DM7, DM10 and DM17 of the SADMP.
- 46) Hinckley is not a smokeless zone, this development will add to the suffering of asthma and COPD sufferers.
- 47) Many other sites such as brownfield which need regenerating
- 48) Loss of a historical bridal way
- 49) Landscape and visual impact
- 50) Reduces non motorised choices

Two petitions have been received one containing 13 signatures and one containing 41 signatures who oppose the application.

6. Consultation

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

HBBC Affordable Housing
 HBBC Environmental Services (Pollution)
 HBBC Waste Services
 Leicestershire Police
 Severn Trent Water
 HBBC Drainage
 LCC Ecology
 LCC Archaeology
 Rugby Borough Council

Updated consultation responses to be received from:-

Highways England
 LCC (Highways)
 LCC as Lead Local Flood Authority

6.2. Burbage Parish Council object to the proposal raising the following issues:

- The development would be outside the parish development boundary and would have an advise urbanising effect on the landscape, resulting in harm, to the intrinsic character and beauty of surrounding countryside
- The housing development in on land that has historical connections with ridge and furrow agriculture and the warehousing development is contrary to the protected green wedge, both of which are identified in the emerging Neighbourhood Plan.
- The increased traffic movements associated with the proposed development will have an adverse impact on the amenities of the occupiers of dwellings along Sketchley Lane.
- Sketchley Lane is limited to 4.8 metres in width, and under stress from high traffic levels.
- The scale and height of the proposed warehousing is inappropriate, even in comparison with existing building on adjoining Sketchley Meadows Industrial estate; and would be out of keeping with the area and detrimental to the open views of the countryside.
- The warehousing would place an inappropriate additional load on the A5 prior to any upgrade, elevating current congestion.
- Lack of open space provision
- Noise and light pollution associated with 24 hour operation of warehousing, potential flooding issues on part of the site and potential adverse impact on

utilities serving existing residential development, such as drop in water pressure experienced by residents since Welbeck development was completed.

7. Policy

7.1. Draft Burbage Neighbourhood Plan

- Policy 1: Settlement Boundary
- Policy 2: Windfall Sites
- Policy 3: Design and Layout
- Policy 4 Parking
- Policy 7: Protection of other important green spaces
- Policy 9: Biodiversity
- Policy 20: Business and retail

7.2. Core Strategy (2009)

- Policy 4: Development in Burbage
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

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

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

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

- Employment Land and Premises Study and Review (2018)
- 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 character of the area

- Archaeology
- Affordable housing, housing mix and density
- Impact upon neighbouring residential amenity
- Noise and Pollution
- Impact upon highway safety
- Drainage
- Ecology
- Impact upon trees
- Impact upon Public Right of Way
- Infrastructure contributions
- Other matters

Assessment against strategic planning policies

- 8.2. The application proposal is in two parts, with approximately 5.2 hectares comprising of residential and 10 hectares proposed to provide an extension to Sketchley Meadows Business Park, comprising of 30,000sq.m of gross manufacturing and logistics floorspace. Which will be considered in turn below.
- 8.3. 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.
- 8.4. 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).
- 8.5. 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).
- 8.6. The emerging Burbage Neighbourhood Plan (BNP) has recently been submitted to the local planning authority and has been subject to public consultation. All representations received are submitted to an examiner who considers the Neighbourhood Plan. The examiner has made an initial assessment, and has raised a number of issues, concluding that a hearing is required. Therefore only limited weight can be afforded to this emerging document at this time. The emerging Burbage Neighbourhood Plan, does not allocate any sites for housing or employment developments.

Residential scheme

- 8.7. 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 4 of the Core Strategy identifies Burbage as part of the urban area of the Borough where housing will be supported within its settlement boundary. It goes on to state the council will allocate land for the development of a minimum of 295 new residential dwelling, focused primarily to the north of Burbage, adjacent to the Hinckley settlement boundary. The adopted SADMP defines the extent of the

settlement boundary of Burbage and identifies specific sites for housing and other forms of development.

- 8.8. 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.
- 8.9. The site is situated outside the defined settlement boundary of Burbage which forms the north, east and west 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;
- 8.10. 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. A number of objections received state that the application site lies within land designated as Green Belt or Green Wedge. The application site is not designated as Green Belt land or as land within the Green Wedge within the SADMP.
- 8.11. This application is for the development housing outside the settlement of Burbage within the countryside it is contrary to Policy 4 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.

Proposed employment

- 8.12. To the southern and western areas of the application site, an area of approximately 10 hectares is proposed to provide an extension to the existing Sketchley Meadows Business Park, which would be accessed via Watling Drive to the west of the application site.
- 8.13. The Core Strategy (2009) sets out the overarching spatial strategy for the Borough. In terms of Development in Burbage. Policy 4 seeks to allocate land for the development of 10 hectares of B8 employment land and 4 hectares of B2 employment land adjacent to the railway line as an extension to Logix park. Policy 4, also goes on and states to ensure there is a range of employment opportunities within Burbage and in close proximity to Hinckley.
- 8.14. The application site is located outside any defined settlement boundaries, and is therefore situated within the countryside. Policy DM4 of the SADMP seeks to safeguard the countryside from unsustainable development and identifies several criteria outlining where development in the countryside can be considered to be sustainable. The policy identifies that development in the countryside can be considered sustainable where proposed development would significantly contribute to economic growth, job creation; subject to it meeting further detailed criteria; namely that the development would 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.
- 8.15. The SADMP acknowledges that although sufficient employment land is available in the Borough to support the identified growth of the plan period it is important that employment opportunities are not stifled. Policy DM20: Provision of Employment Sites applies to this application and sets out that proposals which stand outside the settlement boundary and on greenfield sites will only be found acceptable where it is demonstrated that there are no suitable alternative sites identified sequentially in the following locations:
- Within settlement boundaries
 - On previously developed land
 - Adjacent to existing employment sites
 - Adjacent to settlement boundaries
- 8.16. The Employment Land and Premises Review (2013), is currently being updated and at the time of writing this report, this work is on going and is currently in draft form. The Employment Land and Premises study (ELPs) will provide an assessment of the current position and recent trends within the Boroughs economy, and the potential scale and type of future economic growth and business need. However notwithstanding this there is a general consensus from the ELPs (2013) that the specific policies in the Core Strategy are sensible and allow the vision and objectives of the document to be achieved. The most recent Employment Land and Availability Monitoring Statement 2017 – 2019 provides a basis for monitoring the relevant Local Plan policies with regards to delivering sustainable economic development and employment land in the borough and sets out the net gains or losses of employment development across the borough at 1st April 2019. It shows that there has been a loss of 4.36 hectares of employment land within the key rural centres as the land is utilised for alternative uses, primarily housing. Therefore the challenge remains in helping to ensure there is an increased provision of employment opportunities.
- 8.17. As previously discussed, the ELPs (2013) is currently under review and drafting, and will be informed by the results of the Housing and Economic Development

Needs Assessment (HEDNA), produced on behalf of the Leicester and Leicestershire Authorities and the Leicester and Leicestershire Enterprise Partnership in January 2017. The HEDNA provided employment land requirements, both local and strategic, for Hinckley and Bosworth Borough over the period to 2036. The HEDNA identifies the specific need for employment land, and in addition to that set out in the table below, Local Authorities will also need to seek to meet the need from strategic B8 uses.

Table 83: Employment Land Needs (Ha)

	2011-2031			2011-2036		
	B1a/b	B1c/B2	Small B8	B1a/b	B1c/B2	Small B8
Leicester	2-6	36	15	3-7	45	19
Blaby	37-45	15	10	47-48	19	12
Charnwood	14-37	21	11	17-40	26	13
Harborough	14-21	22	8	17-24	28	9
H&B	11-32	14	16	13-34	17	20
Melton	10-18	21	14	10-23	26	17
NWL	45-46	3	17	50-56	4	21
O&W	1	0	4	2	0	5
FEMA	142-198	132	93	177-215	165	117

Source: GL Hearn, 2016

- 8.18. The assessments states that Leicestershire authorities are strategically located at the centre of the UK and see strong demand for logistics/ distribution floor space and shows a strong market demand for additional B8 development. The assessment identifies a need for small scale B8 development (less than 9,000 sqm) with a requirement in Hinckley and Bosworth of 20ha and a requirement of 17ha for B1C/B2 uses between 2011- 2036. Therefore the most up to date assessments and monitoring reports demonstrate there is clear need for additional employment land which weighs in favour of the application. However, this growth should be guided to the most sustainably located sites.
- 8.19. The Site Allocations and Development Management Policies DPD implements the policies within the Core Strategy and contains policies to help guide new employment development and protect existing employment floor space.
- 8.20. The application site is outside the defined settlement boundary for Burbage, however the proposed employment site would be situated adjacent to an allocated employment site, Sketchley Meadows Industrial Estate (BUR52), and is proposed to extend this existing allocated employment site, which is identified as a category A site within the ELPs, and therefore a key employment area to be retained. The application has been supported by a sequential test, and commissioned an Employment Market Report, and reviews available sites in excess of 5 hectares, the Employment Market Report considers the existing supply and demand for employment land in Hinckley, and assesses that it is limited to 3 years of supply in the market of similar, good quality, small to mid box accommodation as being proposed, and not sufficient to provide an appropriate level of market choice, with particular shortage of sites which can provide small, mid-box sized units to accommodate B8 looking to serve the more local catchment.
- 8.21. The report identifies that the site has strong locational credential and there is a market demand for B2 and B8 units of less than 9,00sqm within the Hinckley and Burbage area. The sequential test identifies that there are two employment sites proposed in both the Earl Shilton SUE and Barwell SUE, however they are both unlikely to be available to in the next five years, to meet the immediate need and demand identified. The third site considered as a potential alternative site that could

meet occupiers requirement is the Hinckley Sewerage Treatment Plant, however due to a number of physical and environmental constraints resulted in the site being an unviable option.

- 8.22. The supporting sequential test and employment market report identifies that existing sites such as the Goodman site, which has been completed in more recent years is fully occupied and demonstrates the strong demand for mid sized B2/B8 units, due to the focus on delivering more strategic and big size boxes (units over 9,290sqm). Demand and low vacancies combined with rising supply in the East Midland for small to mid boxes has led to speculative developments such as this, to fulfil demand and address an identified imbalance, especially within an important strategic route along the A5, reflective of the Boroughs transport links and location at the heart of the logistics sectors 'Golden Triangle'. This demand is focused on prime sites in close proximity to the motorway network. Hinckley and Bardon Hill are the Borough's focus of market demand for the logistics sector due to their proximity to the motorway network.
- 8.23. The size and mix of the proposed units would be a matter for a reserved matter, however indicative plans which accompany the application in addition to the parameter plan demonstrates that the application site is capable of 2 larger units of with a combined floorspace of approximately 20,000sqm and 2 smaller units comprising of 10,000 sqm of floorspace, equating to 524 gross full-time equivalent jobs, being delivered through the development. Although the current ELPs does not identify an overarching need for employment space, contrary to the HEDNA, the supporting documentation identifies a clear market need for the proposed units.
- 8.24. To support and raise the level of local skill set within the workforce, the applicant will seek to promote local employment opportunities and where possible encourage and facilitate learning, through the provision and agreement of a Local Employment Training Strategy. This will commit by way of a Section 106 to provide young people with a chance to gain value site and project related experience, specially targeting the unemployed Hinckley and Bosworth Borough Council residents and job seeking local students. This seeks to maximise the labour pool so that local unemployed people and local job seeking students have access to available job opportunities. The applicant would work in partnership with Hinckley and Bosworth Borough Council to facilitate this economic regeneration, ensuring vacancies and recruitment exercises are advertised in the context.
- 8.25. The NPPF identifies that where significant development of agricultural land is demonstrated to be necessary, areas of poor quality land should be use in preference to higher quality. This development would result in the loss of approximately 14.39 ha of agricultural land, 39% of site is Grade 2 (very good); 15% is Subgrade 3a (Good) and 39% Subgrade 3b (Moderate) in the Agricultural Land Classification (ALC) system). The current farming regime of BMV land within the application site is consistent with farming practices within the site as a whole, being limited to land used for livestock grazing rather than supporting a wide range of agricultural and horticultural crops. As such, the benefits of the presence of BMV land have been muted by farming practices being associated with lower quality land.
- 8.26. Given the quality of this land and its constrained nature; and preferable location compared to other greenfield sites which could involve loss of best and most versatile agricultural land it is considered that the proposal is acceptable in this regard, the loss of this should be weight in the balance of the merits of the scheme..
- 8.27. The proposed development would make a contribution to economic growth and job creation within the Borough; in addition, the applicant has satisfactorily

demonstrated that there are no suitable alternative employment sites to accommodate the demand within the market in the short term, the proposal although outside the settlement boundary, is immediately adjacent to the settlement boundary of Burbage, and Sketchley Meadows Industrial Estate to which this would form an extension to. It is considered therefore that the proposed development would result in a degree of conflict with DM4 of the SADMP. Policy DM4 of the SADMP in terms of housing supply is out of date and therefore settlement boundaries which are based on housing targets are out of date and the tilted balance is applied, and therefore this conflict should be weighed in the balance. Notwithstanding this degree of conflict, the proposal does accord with Policy DM20, and the applicant has demonstrated through the submission of a sequential test and market appraisal that there would be no alternative and suitable sites to meet the short term identified need.

Design and impact upon the character of the area

- 8.28. 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.
- 8.29. 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.
- 8.30. Objections to the application have been received on the grounds that the proposal would be detrimental to the character of the countryside.
- 8.31. The application site falls within the Burbage Common Rolling Farmland Character Area as detailed within the Landscape Character Assessment (2017). The document notes that the landscape around this area is influenced by large scale infrastructure such as the M69 and railway which introduces noise and movement in a relatively rural landscape. It also highlights that there are extensive views across agricultural fields and successive hedgerows are common as a result of the relatively few trees, and consequently the urban edges of Hinckley, Burbage, Barwell and Earl Shilton are often starkly visible as a result of their elevated ridgeline location and the relatively open settlement edge. Because of this extensive visibility and long distance views the area is sensitive as any change or development has the potential to be widely visible. This leads to the landscape strategy of ensuring any new and existing development is integrated into the landscape such as ensuring built form is orientated to provide broken rooflines and integrated with woodland copses. It also suggests strategic scale woodland planting should be considered to help screen development
- 8.32. The Landscape Sensitivity Assessment (2017) provides a general overview of comparative landscape sensitivity around key settlements based on landscape character. The application site fall within sensitivity Area 7: Sketchley. The assessment area covers the area between the urban extents of Hinckley and Burbage settlements outside the settlements edge to the south, extending towards the A5. This assessment concludes that the site is considered to have an overall low sensitivity to residential development due to the strong relationship it has with the settlement edge with the back gardens of adjacent prosperities backing onto to the eastern area. The assessment also identifies that it has a strong visual

containment and also fits largely within the settlement form with existing development in and around the area to the north, east and west.

- 8.33. In terms of commercial development within this landscape, the assessment considers that the sensitivity area would have an overall medium sensitivity. The existing commercial development in the area has some visual containment from tree planting, while new commercial development to the east is considered to be more likely exposed on sloping land. The undeveloped fields in the east are smaller in scale and have a greater relationship with the adjacent residential development, and are located further away from the major infrastructure associated with the industrial estate, and therefore higher in terms of sensitivity.
- 8.34. The key sensitivities and values of the assessment area around Sketchley are:
- Hedgerows with some mature hedgerow trees to field boundaries forming part of the overall ecological network
 - Small streams defined by woodland and tree planting providing 'green fingers' through large scale development and connecting recreational network.
 - The Ashby de la Zouch Canal as a historic asset (Conservation Area) and role as Green Infrastructure providing a connected recreational network.
 - Historic paddocks and farm buildings in an around the historic core of Sketchley
 - Semi-natural woodland planting at the centre of the industrial estate provides some visual containment and softens views of built development.
- 8.35. The landscape sensitivity study gives the following guidance for new development outside the settlement boundary of Sketchley in the assessment area:
- Plan for successful integration in the landscape through sensitive design and siting, including use of appropriate materials and landscape mitigation to enhance sense of place
 - Seek to retain the pattern of hedgerows and hedgerow trees and incorporate further buffer planting to the A5 and A41 transport corridors.
 - Seeks opportunities to maintain and enhance the network or rights of way and consider opportunities to create and promote an integrated green infrastructure network around the Burbage and Hinckley urban edge, including along the Ashby de la Zouch Canal corridor
 - Conserve and enhance the historic character of the canal and its use for recreational boating
 - Protect localised areas of semi natural woodland and consider opportunities for further woodland creation around built edges and the A5.
- 8.36. The site is situated to the north of Watling Street (A5), to the south of Sketchley Lane. The application site, is bound of three sides by built development, to the north Sketchley Lodge and Sketchley Grange Hotel, to the north west is Sketchley Meadows Business Park, and to the south east a residential development known as The Spinney. The application site comprises of 7 fields/paddock areas which vary in terms of shape and size, and defined by field hedgerow interspersed with mature trees. To the east a bridle path (U67) travels north to south within a tree belt, which defines the eastern edge of the application site. The land generally drops away to the south west. Centrally located within the application site, to the rear of Sketchley grange hotel, are cow and chicken sheds. As identified and described within the LCA the site is visually contained and has a strong relationship with the with the settlement edge, which surrounds and contains the site. Whilst development on this land would have an impact upon the immediate rural character in this location, the level of adverse impact would be low to moderate at worst case, in the edge of settlement location, for the reasons set out below.

- 8.37. Although matters such as layout, siting, scale and appearance are reserved, the application within the Design and Access Statement identifies and confirms a number of parameters which would provide the framework of any detailed layout and appearance of any subsequent reserved matters application, and proposes overall to provide the following uses and amounts:-
- 5.46ha of commercial development with easy access to the A5
 - 3.72ha of residential development at a density average of 37dph; and
 - 5.39ha of green infrastructure including amenity open space, retained vegetation and new strategic planting.
- 8.38. Parameters have also been provided in terms of building heights which are proposed as follows:-
- Dwellings would be limited to 2 storeys with instances of 3 storey dwellings within key locations, to define central core or to act as markers at prominent locations
 - Commercial buildings are proposed to be a maximum height to ridge of 15.5metres along the most southerly half of the application site along the A5, and 13 metres to the ridge to the north adjacent Sketchley Grange Hotel.
- 8.39. The application has been supported by a LVIA, which provides an analysis of the likely landscape and visual effects of the proposed scheme, and has been carried out in accordance with the Guidelines for Landscape and Visual Impact Assessment – third edition. The LVIA identifies and defines a number of receptors which are likely to experience visual change, these are Rights of Way users, Road Users, Residential Dwellings and other receptors such as visitors to the Sketchley Grange Hotel and Spa.
- 8.40. In terms of predicted effects on the character of the site, the LVIA identifies that the loss of agricultural field parcels to facilitate the mixed commercial and residential development would create localised effect. However when this effect is considered within the local context, with the perceptual and sensory dimension experiencing a very high adverse effect in year one, which through maturing of additional landscaping likely to reduce to a high adverse effect at year 15 as the development became more integrated over time, and becomes integrated into the local context. It is noted within the Landscape Sensitivity study, the sensitivity upon perceptual qualities within this landscape area, when having regard to the surrounding urban form, and the noise intrusion from the A5, which creates a busy landscape is predicted low to medium at worst case, due to the rurality and well treed field boundaries and mature specimens which are present.
- 8.41. The immediate area surrounding the site has been identified as being subject to the greatest change to the defined Landscape Character area (LCA). The LCA recognises some characteristics of the host LCA that are reflected locally within the site and its immediate context, mainly related to the pasture farmland, urban fringe influences and major transport corridors such as the A5. The assessment cites two sensitivities that are found within this application site. These are the presence of low hedgerows and mature trees as well as footpaths which connect to the wider landscape. However the application proposed that a landscape strategy would seek to retain boundary hedgerows and enhance these existing features, which would reduce the effects upon the Landscape Character Area. In terms of views from local road users, especially along the A5, where passing views are available, especially given the topography of the application, where by the land levels fall towards the A5. The LVIA identifies that this would be extremely limited due to the existing built form and mature and landscape features within the surrounding landscape. From the A5 receptors would experience short distance oblique views, distant viewpoints

are identified as not discernible amongst the mature vegetation and existing built form. The submitted LVIA concludes and gives minor adverse long term effect at year 15, for vehicle users and a minor adverse.

- 8.42. The LVIA states that through good design and mitigation planting, views of the proposed development from residential dwellings would be partially mitigated, as supported by the indicative masterplan. Nonetheless views from nearby properties to the east of the application site along Troon Way and within the new residential development 'The Spinney' even with careful planning and landscaping would still experience some views towards the application site. The LVIA states that although the views would be seen in the context of the surrounding built form, the proposed development would urbanise the site further due to change in land use, and such magnitude of change would be high, which would result in a major/moderate adverse effect at year 1, reducing to moderate within the long term through the maturing of any proposed landscape strategy.
- 8.43. The greatest scale of change in terms of effects upon visual amenity would be experienced along PRoW, U67/3, U67/2 and U64/2, which run both within and adjacent to the application site, where there are short distance and direct views of the existing agricultural fields. It should be noted that PRoW U67/2 has restricted access and therefore the effects are not measurable. The LVIA, identifies that given the urbanising context in which the application site is positioned within, the effects upon the receptor would be lessened. Accordingly, whilst the proposed development would impact upon views from the PRoW U67/3 and U64/2 adjacent to the site, the LVIA found no reason why the change to the land use should be found to be so harmful as to be unacceptable in terms of the effects on the landscape character and visual amenity. The LVIA states that the magnitude of change across the site would be mitigated with consideration to a number of factors, which include development which would consistent in land use terms with the adjacent development types, audible dual carriage adjacent to the southern boundary and retention of boundary landscape features, which would serve to mitigate both visual and landscape effects of the proposed development as well as enhancement of biodiversity. However notwithstanding the existing footpath is inaccessible at present, it is a still legal right of way and as such the magnitude of change to this route, need to be considered. Given the footpaths location, in that it would extend through the site and footpaths are considered sensitive receptors, this change would be of high magnitude of change with a high adverse impact on the landscape character which when viewed from this sensitive receptor the visual impact could be nothing less than moderate.
- 8.44. The LVIA concludes that there would be minor adverse effect on the wider landscape character area as a result of the proposed built form, and includes a landscape strategy which seeks to complement and enhance the existing landscape character in addition to mitigating and softening views of the proposed development from residential dwellings, PRoW and road users. The visual impacts of the development overall are considered to be moderate, given the presence of PRoW that currently traverse the application site. .
- 8.45. The application site is situated to the north-east of the Birmingham Green Belt, the edge of which is defined by the A5 (Watling Street), situated to the south of the application site. Paragraph 133 of the NPPF states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The application site and its immediate context is not included within the Green Belt and the proposal would not extend beyond the existing built form positioned along the northern boundary of the A5. The proposal seeks to include a landscaping management strategy which would enhance and provide a more robust boundary

treatment along this A5 boundary, which at present is sparse, and would reduce the visual impact on the adjacent Green Belt and Countryside.

- 8.46. The application is accompanied by an indicative layout, which seeks to concentrate residential development to the eastern portion of the site, and would be immediately accessed via Sketchley Lane, and contained on three sides by existing residential development. To the east dwellings along Troon Way back onto the application site, and to the south a development, known as 'The Spinney' by David Wilson Homes, is nearing completion granted under application 13/00529/OUT. To the north on the opposite side of Sketchley Lane, are dwellings which face onto the proposed access with Sketchley Old Village beyond. As you travel along Sketchley Lane, beyond Sketchley Grange Hotel, the lane narrows, and agricultural land can be observed to the north, prior to the approach and entrance into Sketchley Business park. To the south of Sketchley and effectively to the rear of Sketchley Grange Hotel, the proposed masterplan and indicative layout would provide the commercial element of the development. The commercial buildings would extend over 4 of the 7 fields, and would be contained by the A5 along its southern boundary, Sketchley Business Park to the north west, and Sketchley Grange to the north. To the south east the site would border the west boundary of 'The Spinney'.
- 8.47. The proposal would retain existing hedgerows to the boundaries, of the east and south boundaries of the site, and enhance with new planting. Within the site, although a number of hedgerows would be likely lost to allow development, a centrally located green infrastructure network which would utilise retained and enhanced hedgerows, mature trees and new planting would extend through the residential scheme and provide a link across the site which would extend towards Watling Drive. The proposed masterplan would also provide opportunity to sensitively locating commercial units to retain and incorporate existing hedgerow planting between each unit, where possible and subsequent enhancement.
- 8.48. The application site does have a varied topography, with land levels dropping generally south towards the A5. Whilst the finished floor levels of the dwellings and commercial units have not been provided, indicative sections demonstrate how the relationship of the site to the wider area could be achieved, to ensure a satisfactory relationship, between the proposed buildings and the wider area. 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.
- 8.49. As the application has been submitted in Outline with matters of scale, layout and appearance reserved no assessment of the proposal in relation to the urban character is made. However, it is not considered that there is any reason that the proposal could not respond well to the features and characteristics of Burbage and there is recognition of this within the submitted Design and Access Statement.
- 8.50. The proposal would extend development beyond the settlement boundary of Burbage, and it is considered that the proposal would result in some harm, albeit limited, to the character and appearance of the area, and would therefore be in conflict with Policy DM4 and DM10 of the SADMP.

Historic environment

- 8.51. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage assets. Policy DM12 states that "development proposals should ensure the significance of a conservation area is preserved and enhanced" and that "assets identified on the Locally Important Heritage Asset List should be retained and

enhanced wherever possible". The SADMP DPD also states that "development proposals should make every effort to retain the significance of locally listed heritage assets".

- 8.52. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.53. Section 16 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. Paragraph 197 states that "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."
- 8.54. Within the north-western corner of the application site is a single storey animal shelter constructed of red brick with a clay tile roof supported by simple timber open trusses and purlins re-used from an earlier building. The building was constructed sometime between 1887 and 1903 (it is first shown on the 1903 edition OS map) and will have provided shelter for animals grazing upon the number of fields associated with one of the nearby farm complexes (likely Sketchley Manor Farm). It is now used as stables and a tack room. The building is a simple and relatively common example of such a building, however it is considered to be of some illustrative historic interest with the age of the some of the re-used internal features and its likely historic and functional association with a nearby farm complex ensuring the building is of local significance. For these reasons the local planning authority identifies the building as a locally important heritage asset (a non-designated heritage asset in terms of the National Planning Policy Framework).
- 8.55. The Borough Council are currently compiling a list of Local Heritage Assets. The List is yet to be formally ratified but formal selection criteria has been adopted (in 2017) and this forms the basis of identifying and assessing the significance of any non-designated heritage assets when considering development proposals. Local heritage assets can be identified by the local planning authority during the consideration of a development proposal, as is the case with the building here.
- 8.56. Given the local interest of the building and it's relatively poor state of repair it is considered that the adverse impact caused by its proposed demolition could offset by a programme of Building Recording. A Level 2 Historic Building Survey has been suggested by Leicestershire County Council Planning Archaeology, and subject to this recording of the building being undertaken prior to its demolition it is considered that the proposal will comply with Policies DM11 and DM12 the SADMP and section 16 of the NPPF.

Archaeology

- 8.57. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.

- 8.58. An archaeological desk-based assessment was submitted and accompanied the application submission. The Leicestershire and Rutland Historic Environment Record (HER) identifies that the application site is situated within an area of known archaeological interest, due to its positioning adjacent to the course of the Roman Watling Street. Given the scale of the development, the lack of previous disturbance to the site, and the high potential for significant and well preserved archaeological remains of Roman or earlier road side settlement, during the course of the application further archaeological evaluation of the application was carried out.
- 8.59. A programme of archaeological trial trench evaluation was carried out, the work identified a number of linear features and post-holes that are likely to be associated with medieval and post-medieval field boundaries. A ditch located in the southern part of the site contained a single sherd of 2nd century Roman pottery, but this was thought to be residual, given the absence of any other supporting evidence. Nevertheless it has been requested that an archival copy of the report is submitted to the LCC, in order that this can be included within the Leicestershire and Rutland Historic Environment Record.
- 8.60. The application site, offers the existence of a complex arrangement of well-preserved medieval ridge and furrow earthworks that survive across the site, representing the visible remains of the medieval and post-medieval landscape. As these would be lost through groundworks associated with the proposed development, it is recommended that these should be recorded prior to the commencement of any development, mitigation of their loss. Leicestershire County Council (Archaeology) therefore recommend should permission be granted a condition shall be imposed which requires a topographic survey of the earthworks, to incorporate an analysis of existing Lidar data.
- 8.61. The archaeological desk-based assessment also identifies the presence of a late 19th century agricultural building on the site, which would be demolished as part of the current scheme. Traditional farm and agricultural buildings are a diminishing heritage resource and are considered as heritage assets which make an importance contribution to the rural landscape character and add to local distinctiveness, providing a visual link to the past and illustrate a history of farming and settlement in the English landscape.
- 8.62. As the traditional farm building is, or has the potential to constitute a heritage asset (or assets) with an archaeological and heritage interest (National Planning Policy Framework (NPPF) Section 16, paragraph 189 and Annex 2), a condition is considered reasonable and necessary to require the applicant to complete an appropriate level of building recording prior to alteration, to record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance (NPPF Section 16, paragraph 199).
- 8.63. This would require provision by the applicant for a level of building recording, to equate with a Level 2 'Descriptive Survey', as specified in Historic England's Understanding Historic Buildings. A Guide to Good Recording Practice, HE 2016). With reference to the development impact, both the exterior and interior of the building would be investigated, described and photographed. The examination of the building would produce an analysis of its development and use and the record should include the conclusions reached. The survey would result in the preparation of accurate plans, elevations and/or sections, where applicable utilising available survey data or plan records.
- 8.64. As such subject to the inclusion of conditions as discussed above, the development would not result in a detrimental impact upon the understanding of the significance of any heritage asset, and would therefore be in accordance with Policies DM11 and DM12 of the SADMP.

Affordable Housing, Housing Mix and Density

- 8.65. Policy 15 of the Core Strategy requires residential development in Urban areas to provide 20% Affordable Housing with a tenure split of 75% social rented and 25% intermediate housing. The details submitted with this application would suggest that based upon the delivery of 140 dwellings on site this proposal would provide 28 dwellings for affordable housing 21 for rent and 7 for intermediate tenure, in accordance with policy.
- 8.66. Using data from The Housing Register (at September 2019) of the applicants on the housing register 1335 have a local connection to Burbage for the following property sizes:
- 1 bedroom properties- 625 applicants
 - 2 bedroom properties- 463 applicants
 - 3 bedroom properties- 194 applicants
 - 4 bedroom or more- 53 applicants
- 8.67. The greatest need for rented housing in Burbage is 1 bedroomed 2 person apartments. The preferred mix would be a mix of 6, 1 bedroomed 2 persons apartments, 8, 2 bedroomed 4 persons houses, 5, 3 bedroomed 5 person houses and 2, 4 bedroomed 6 persons houses, with a mix of 2 and 3 bedroomed houses for intermediate tenure. However, this is an outline scheme and the layout is not being considered at this time, the number and mix of housing could be agreed by a legal obligation. HBBC (Affordable Housing) is in support of this mix.
- 8.68. Since the application site, is in the urban area of the Borough the s106 agreement should include that affordable housing should be for a connection to the Borough of Hinckley and Bosworth.
- 8.69. 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 40 dwellings per hectare within and adjoining Hinckley, Burbage, Barwell and Earl Shilton. The density of the proposed site is to average at 37dph, 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 equipped play space and inclusion and enhancement of green infrastructure that would be provided, between and through the proposed development, this is above the policy requirement for open space.
- 8.70. Overall it is considered that the proposal is compliant with the provisions of Policies 15 and 16 of the Core Strategy.

Impact upon neighbouring residential amenity

- 8.71. 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. Policy DM7 of the SADMP seeks to ensure that adverse impacts from pollution are prevented, this include impacts from noise, land contamination and light

- 8.72. Objections have been received from local residents with regard to residential amenity by way of additional noise and traffic as well as loss of view. However, the loss of view is not a material planning consideration.
- 8.73. 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 layout submitted demonstrates that the site could be developed for up to 140 dwellings and up to 30,000sqm with satisfactory separation distances and without resulting in any significant adverse impacts on the privacy or amenity of the occupiers of any neighbouring properties.
- 8.74. The application site, as previously discussed, is bound to the south, east and north by residential development. The indicative layout demonstrates that a separation distance of approximately 50 metres from the nearest residential dwelling within Kensington Avenue and Tamarisk Close, could be achieved to the nearest indicative proposed commercial unit, with an enhanced landscape buffer in between. The submission indicates that the ridge height of the proposed units, would be positioned lower than those dwellings to the east, due to the proposed 2-3 metre deep cut in which would reduce the scale of the building in relation to the neighbouring existing dwellings. To the north, the dwellings along Kensington Avenue face north towards the application site, the indicative layout proposed residential development to the north, with a separation distance of approximately 30 metres, with ridge heights of 10 metres proposed, as the land drops slightly into the site. Therefore the indicative layout and scale demonstrates that the proposed development could be achieved, with satisfactory separation distances without resulting in significant adverse impacts upon those dwellings within Kensington Avenue and Tamarisk Close, in terms of overbearing impact or loss of light from the proposed commercial units.
- 8.75. However the individual end users are unknown, and the introduction of the commercial units in close proximity to existing and proposed dwellings, could in turn impact upon the amenity of existing and future residential occupants, without restriction. Although the application proposes parameters which demonstrates the relationship between buildings in terms of their separation distances can be achieved, there is concern that without adequate landscaping buffers, this relationship could be deemed detrimental, especially with unrestricted hours and at maximum height in such close proximity to residential dwellings, could have an impact upon the physical quality of external space enjoyed as part of a home. It is therefore considered necessary that conditions are imposed to ensure this relationship is not detrimental, and parameters are provided to ensure that any units nearest to the proposed dwellings are restricted in terms of hours and heights, as well as a landscaped buffer including bund to separate the uses, which is to be considered as part of reserved matters application.
- 8.76. To the east the site is bound by Troon Way, with an existing footpath running along this boundary. The indicative layout presents proposed dwellings along this stretch, which would be of similar scale of those dwellings along Troon Way. Given the existing landscaping, the positioning of the footpath a proposed separation distance of approximately 30 metres between these existing dwellings along Troon Way. Such a separation distance would ensure that the proposed development would not result in any adverse overlooking nor overbearing impact to these dwellings.
- 8.77. To the west of the proposed access, and to the east of Sketchley Grange Hotel, are a trio of dwellings, known as, Sketchley Lodge Farmhouse, Kinder Lodge and Sketchley Lodge. Sketchley Lodge is a two storey detached dwelling the rear and private amenity space of which backs onto the proposed development site. The indicative layout proposes the rear of dwellings would back onto the site, and can

achieve a window to window distance in excess of 20 metres, which is sufficient to ensure that the proposed development would not result in any overlooking, loss of privacy or overbearing impact to this dwelling. To the west of this application is Sketchely Lodge and Kinder House, where the separation distance and relationship to these properties and the application site increases.

- 8.78. 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 layout submitted demonstrates that the site could be developed for up to 140 dwellings and up to 30,000sqm of commercial floorspace with satisfactory separation distances without resulting in any significant adverse impacts on the privacy or amenity of the occupiers of any neighbouring properties.
- 8.79. The proposal is therefore considered to be in accordance with Policy DM10 as the amenity of neighbouring occupiers of the proposed development would not be adversely affected to warrant refusal of the application.

Noise and Pollution

- 8.80. Policy DM7 of the SADMP seeks to ensure that adverse impacts from pollution are prevented, this includes impacts from noise, land contamination and light. Policy DM10 of the SADMP seeks to ensure that the amenity of the occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.81. The application has been accompanied with a Soils and Agricultural Quality Study, Phase 1 Ground conditions report and Noise Impact Assessment.
- 8.82. The submitted noise impact assessment has regard to the proposed mixed use development, details the existing noise climate and the suitability of the site for the proposed use. The report identifies and provides an assessment of the likely impact of HGV movements associated with the commercial uses on noise sensitive receptors and has regard to any necessary mitigation measures. Environmental Health (Pollution) have considered the submitted Noise Impact assessment and has no objection to the proposed development subject to the imposition of conditions. The conditions seek to ensure that prior to development a scheme for protecting the proposed dwellings from noise from the network and proposed commercial element of the development is submitted and agreed. In addition to a scheme to protect the existing nearby dwellings from noise from the commercial element of the scheme is also submitted and agreed. These conditions are considered reasonable and necessary to ensure the proposed and existing dwellings are provided with an acceptable level of amenity, when having regard to the proximity of the A5 and the commercial use.
- 8.83. The application has been supported with a screening test for potential significant air quality impact from proposed development, which has been informed by the peak AM and PM trips contained within the Transport Assessment. Environmental Health have considered the information and are satisfied that the proposed development would not have a significant impact upon air quality, or would be impacted on by the baseline air quality, and as such a more detailed assessment in this instance would not be necessary.
- 8.84. The Phase 1 investigation recommends that a Phase II investigation is carried out, especially given the agricultural nature of the use, with any Phase II investigations seeking to confirm the site's geology and the extent and characteristics of the made ground within the farmyard area. Environmental Health (Pollution) have therefore no objections subject to the imposition of conditions relating to further contamination investigations to ensure the safe development of the site.

- 8.85. Given the scale of development, which would be in proximity to the adjoining settlement boundary, Environmental Health (Pollution) have also requested a further condition for the submission of a Construction Environment Management Plan, to detail the site preparation and construction and how the impact of this would be mitigated and prevented. It is considered when having regard to the surrounding residential dwellings that this is reasonable and necessary and should be imposed should permission be granted.
- 8.86. The development is therefore in accordance with Policy DM7 of the SADMP.
- Impact upon highway safety
- 8.87. 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.
- 8.88. Access is a matter for determination by this application and a detailed access plan has been provided. In addition to this, the proposal has been supported by the submission of a Transport Assessment and Travel Plan that conclude the proposal would not have adverse impact upon the safe operation of the local highway network. Sketchley Lane, benefits from pedestrian footpaths serving the extent of the lane as it extinguishes into the dead end. The wider area also, benefits from a local and regular bus service, which can be observed along Greenmoor Road, Herald Way and Rugby Road.
- 8.89. The residential access would be taken from the south side Sketchley Lane, and would provide visibility splay of 2.4 x 45 metres which would be in accordance with manual for street, when taking into consideration of the applicants speed survey data. The dimensions of the access ensure an allowance is made for the largest vehicles expected to regularly access the site, such as refuse collection vehicles, to do so in a safe manner without disruption to other road users and without over-designing. The commercial proposal of the application would be taken from an existing branch serving Sketchley Industrial estate with direct access onto the A5.
- 8.90. Reserved Matters applications will specify sufficient parking, both in terms of numbers and dimensions, to comply with the relevant standards at the time of submission, as will the internal road layout.
- 8.91. LCC and Highways England as the Local Highway Authority have no objection to the development , however they have suggested that development proposals could be acceptable in highway safety concerns subject to the imposition of a number of conditions and off site obligations prior the commencement of the development
- 8.92. Further details will be made available for the planning committee's consideration via the late items prior to the meeting with regards to the issue of highway safety from this mixed use proposal.
- Flooding and Drainage
- 8.93. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding.
- 8.94. A Flood Risk Assessment has been submitted with the application in accordance with paragraph 163 of the NPPF.
- 8.95. Severn Trent Water Limited and Environmental Health (Drainage) have assessed the information submitted and raise no objections to the scheme subject to

conditions to require the submission of further surface water drainage scheme details in accordance with the submitted Drainage Strategy for prior approval, infiltration testing, management of surface water during construction of the development and a long term maintenance plan for the sustainable surface water drainage system for prior approval. The conditions would be reasonable and necessary to prevent flooding and maintain water quality by ensuring the satisfactory storage and disposal of surface water from the site and a suitable maintenance regime for its long term performance.

- 8.96. During the course of the application further information has been submitted to the Lead Local Flood Authority, who will provide a formal response prior to the meeting, and will be reported by way of a late item, however it is considered that subject to the imposition of appropriate conditions the proposal would be
- 8.97. Subject to the satisfactory discharge of such conditions, the proposal would be in accordance with Policy DM7 of the adopted SADMP in respect of surface water drainage and water quality.

Ecology

- 8.98. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.99. Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.100. The presence of protected species is a material consideration in any planning decision, it is essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals is established prior to planning permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions.
- 8.101. An Ecology Appraisal was submitted in support of the application and has been considered by Leicestershire County Council (Ecology).
- 8.102. No evidence of bat roosts was found in the existing farmstead buildings on site and they were considered at most to have a low potential to support roosting bats. Foraging bats were however recorded on site and these were found mainly to be using the boundary features for foraging. These features are being retained within the development, but it is important that they are also buffered and are not subject to increased levels of lighting.
- 8.103. One outlier sett was found on the southern boundary of the application site, however no evidence of badgers was recorded on the application site and as such it is considered likely that the badger population is to the south of the application site, and therefore not a constraint to this development at this time. Notwithstanding this, it is considered necessary that an updated badger survey should be completed prior to each phase of the development.
- 8.104. The application was supported by a Great Crested Newt (GCN) survey, which included one pond immediately to the north of the site, the surveys found no GCN populations which would be a constraint to the development. Pond 3 is within 250m of the application site and not separated by any significant development however this pond has been infilled a number of years ago and is limited to a shallow depression free of water, and as such not considered likely that GCNs would be present. Although GCN were not present, palmate newts were recorded in pond 4,

which are not common species in Leicestershire and would require a level of protection should they be impacted. However the proposal in its current form would not result in an impact upon this population and therefore considered acceptable.

- 8.105. The Phase 1 Habitat Survey indicates that the majority of the site comprises improved grassland, and part of the site was designated as a potential Local Wildlife Site (LWS) based on surveys in the 1980s. However, from more updated surveys and information the site is no longer botanically diverse, which is a likely result of a change in management since the initial survey in the 1980s.
- 8.106. The proposed scheme would result in the loss of hedgerows and trees which are present within the application site, Hedgerow 13 and 15 would meet the criteria when assessed against the Local Wildlife Sites selection criteria are species rich, containing locally native trees and shrubs. This extent of hedgerow runs generally along the northern boundaries of the bottom two fields which abut the A5. Retaining this extent of hedgerow would result in a significant constraint to the site, in terms of the most efficient use of land is brought forward which is suitable for the development to meet local housing and employment need. Policy DM6 states:-

Where a proposal is likely to result in harm to locally important sites (including habitats or species of principal importance for biodiversity), developers will be required to accord with the following sequential approach:

- h) Firstly, seek an alternative site with a lesser impact than that proposed;
 - i) Secondly, and if the first is not possible, demonstrate mitigation measures can be taken on site;
 - j) Thirdly, and as a last resort, seek appropriate compensation measures, on site wherever possible and off site where this is not feasible.
- 8.107. In order to compensate for the loss of these hedgerows and mature trees the masterplan provides a new gain in linear habitats, through the provision 0.41km of new native species rich hedgerows, 0.9km of street tree planting and 2.63ha of native broadleaved woodland, as proposed within the Landscape strategy plan. The Landscape strategy would provide a net gain in linear habitats of 2.53 linear unit gains. In order to compensate for the loss of any hedgerows new hedgerow planting must comprise species-rich hedgerows, using only locally native species. The loss of mature trees within this hedgerow would require compensation planting in the form of new parkland/hedgerow trees, which is protected, would have the opportunity to development into a similar valuable habitat over the course of time. As such it would be considered necessary that any reserved matters application would be accompanied by a mature tree strategy protecting those trees which would be retained to ensure that adequate management is in place for the existing proposed trees and associated features.
- 8.108. The proposed development does provide opportunities for ecological enhancement, and biodiversity calculations submitted within the ecology report advises that the proposed development would result in a net gain. However as landscaping and layout is a reserved matters, this would need to be considered further should a reserved matter application followed, to ensure the proposed development would provide a net gain, in accordance with the Landscape Strategy Plan.
- 8.109. Overall, the impact of the proposed development on protected species is accordance with Policy DM6 of the SADMP DPD and the general principles of the NPPF.

Impact upon Trees

- 8.110. The application has been accompanied by an Arboricultural report considering the impact that the development proposal may have upon the surrounding trees and providing any mitigating measures.
- 8.111. The proposed layout has been designed to accommodate the key boundary trees along the boundaries of the site. There are three Tree Preservation Orders present surrounding the application site, Sketchley House, which is located on land to the south east of the application site. Sketchley Lane, which affects a number of road side trees to the north west of Sketchley Lane and Land off Sketchley Lane, which affects a number of existing trees along the eastern/south boundary of the application site. The latter of the Orders includes a veteran tree.
- 8.112. The Arboricultural report identifies 34 individual trees, 28 groups of trees and 38 hedgerows. Of these, 2 have been categorised as A, of high quality and value, 35 categorised as B, of moderate quality and 32 categorised as C, of low quality. 31 items have been categorised as U due to their impaired condition and therefore unsuitable for retention. The veteran tree along the eastern boundary of the application site has been classified as a B3 category. The indicative masterplan has been informed by the arboricultural recommendations, and has sought to maintain trees where possible. The proposed development has identified to result in the loss of 7 of the 35 Category B trees and 6 trees and groups of Category, which are primarily the hedgerow and tree boundaries of the centrally located field boundaries within the site. The existing trees identified for retention would be continued to be managed.
- 8.113. Concerns have been raised by the Tree Officer relating to the loss of the trees from within the site, however due the location of the trees within the site, options to develop the scheme around the affected trees would render the scheme undeliverable. Given the identified need of this type of development, the loss of the trees are considered to be outweighed by the significant social benefits of the proposal.
- 8.114. The development would provide an opportunity for the inclusion of a well designed landscaping scheme on site, and the loss of 13 trees/groups would be more than compensated through the provision of new planting across the site, which would have a greater potential for greater longevity within the landscape. The landscaping scheme would also provide opportunities species diversity for the site. It is therefore considered that the loss of trees would not provide a reason not to support the proposal given the on site mitigation that could be provided and the significant social benefits of this development. Given the loss of trees any subsequent application should seek to mitigate the loss through the incorporation of a high quality and sympathetically designed landscaping proposal. It is therefore considered that the loss of trees would not provide a reason not to support the proposal given the on site mitigation that could be provided and the social and economic benefits of this development.
- 8.115. Therefore it is considered that subject to the submission adequate mitigation for the loss of the trees and management of the existing tree stock, it is considered that the application would accord with Policy DM6 of the SADMP.

Impact upon Public Right of Way

- 8.116. An existing public right of way U67 currently runs through the site from north to south, within the eastern portion of the site extends through the David Wilson Homes site (Sketchley House development planning reference 13/00523/OUT) towards the A5 (Watling Street). The proposal would maintain this footpath, and incorporate it into and through the site, providing and maintaining the public link to

the A5, the precise nature, design and surfacing of the footpath would be fixed at design stage.

- 8.117. Following Consultation with Leicestershire County Council (Public Rights of Way) they have no objection to the proposed diversion, however the construction and surface specification would be subject to a separate consent from Leicestershire County Council.

Infrastructure Contributions

- 8.118. 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.
- 8.119. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (As Amended) (CIL) and paragraph 56 of the Framework. The CIL Regulations and NPPF confirm 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.

Play and Open Space

- 8.120. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016, updates these standards and also identifies the costs for off-site and on-site contributions. In line with the up to date standards identified in the 2016 study the table below identified the requirements for open space, which is provided on site and what would be the requirements off site.

	Policy Requirement per dwelling based on 2.4 people per dwelling using CENSUS average	Requirement of open space for the proposed development of 140 dwellings (square metres)	Provided on site (square Meters)	Remaining requirement to be provided off site
Equipped Children's Play Space	3.6	504	500	0.04
Casual/Informal Play Spaces	16.8	2352	6,200	0
Outdoor Sports Provision	38.4	5376	0	5347
Accessibility Natural Green Space	40	5600	0	5600

- 8.121. The nearest existing off site public open space is located off Colts Close BURB 21 with a quality score of 76% and provides Children's play equipment, Outdoor Sport Facilities and provisions for young people.

- 8.122. In accordance with the Open Space and Recreation Study (2016) the number of dwellings proposed requires a Local Area of Play (LEAP) to be provided on site. The submitted Development Framework indicates the provision of a LEAP centrally located within the residential portion of the development; this has been confirmed as being 0.05ha in size, which is appropriate for a LEAP, which is required to be of at least 400sqm. The developer would be obligated to provide and then transfer the on-site open space area to a management company, together with a maintenance contribution or, request that either the Borough Council or the Parish Council maintain the land. If the land is to be transferred to an authority then the area of open space would include a maintenance contribution. The study also requires the provision of a Locally Equipped Area for Play (LAP) on site of a minimum of 100sqm, given the size of the proposed LEAP, it is considered that sufficient equipped play space can be provided within the site to serve the development needs.
- 8.123. The site is providing substantially more casual informal play space around the edges of the site and to the east, than is required by policy. This provision contains a footpath network connecting to existing footpath routes. There are areas centrally located which also include a SUDs feature, although despite this, there is still a large amount of accessible usable space.
- 8.124. To ensure this development provides sufficient open space in accordance with Policy 19 of the Core Strategy this contribution is considered necessary and directly related and fairly and reasonably related in scale and kind to the development proposed and therefore meets the CIL tests. The monetary contributions are set out below.

	On site maintenance (20 years)	Off site provision	Off site maintenance (10 years)	Total
Equipped Children's Play Space	£87,800.00	/	/	£87,800.00
Casual/Informal Play Spaces	£66,960	/	/	£66,960
Outdoor Sports Provision	/	£48,652.80	£23,116.80	£71,768.80
Accessibility Natural Green Space	/	£22,904.00	£39,760.00	£62,664.00
			Overall Total	£289,192

- 8.125. 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.
- 8.126. The developer will also be obligated to provide and then transfer the on-site open space area to a management company, together with a maintenance contribution or, in the alternative, requesting that either the Borough Council or the Parish Council maintain it. In the latter eventuality, the open space area would be transferred to the relevant authority together with a maintenance contribution.
- 8.127. The provision of Play and Open Space is required for compliance with Policies 11 and 19 of the Core Strategy and Policy DM3 of the adopted SADMP. These Policies are consistent with the NPPF in helping to achieve the social objective of

sustainable development through promoting healthy and safe communities as addressed in section 8 of the NPPF. The provision of play and open space helps support communities health, social and cultural well-being and is therefore necessary. Core Strategy Policy 4 requires development in Burbage to address existing deficiencies in the quality, quantity and accessibility of green space and play provision. Policy 19 sets out the standards to ensure all residents within the borough, including those in new development have access to sufficient high quality accessible green spaces. The indicative only layout of the proposed development suggests the provision of open space around the site to include a LEAP and informal space. Using the adopted Open Space and Recreation Study (2016) the closest public open space, to the proposed site, Clots Close (BUR21) falls below the quality scores set by the Open Space and Recreation Study and therefore the obligations and contributions directly relate to the proposed development. The extent of the Open Space and Recreation contribution and provision is directly related in scale and kind to the development and its impacts upon surrounding publicly accessible open spaces. The delivery of these obligations is policy compliant and has been applied fairly as with all development of this typology, the developer is not obligated to provide anything above policy compliant position and therefore the contribution relates in scale and kind.

NHS West Leicestershire CCG - Health Care

- 8.128. The West Leicestershire CCG has requested a contribution of £85,183.92 towards addressing the deficiencies in services at Burbage Surgery, which are the closest available GP practices to the development. The practice has seen significant growth due to housing development within their practice areas over the past 5 years, which is impacting on their capacity and resilience. An increase of 339 patients will significantly impact on patient demand in the area.
- 8.129. The provision of a Health Care contribution is required for compliance with Policy DM3 of the adopted SADMP. The requirement of funding for Health Care Provision at identified local GP Surgery, addresses the impacts of the development on existing and future need of this vital infrastructure provision, helping to meet the overarching social objectives contained within the NPPF in achieving sustainable development, thus making the obligation necessary. The identified increase in patients would have a direct impact on the local Burbage Surgery, as set out in the request, arising from the additional demand on services directly related to the population generated from the development. The extent of the Health Care contribution is directly related in scale and kind to the development, the obligation is calculated using population projections applied to all developments of this typology. The obligation sets out current capacity or otherwise of local services and how this proposal leads to direct impact, the developer is not obligated to provide contributions to address need in excess of that generated directly from the development, therefore the contribution fairly relates in scale and kinds to the development proposed.
- 8.130. This request was considered by an inspector at inquiry APP/K2420/W/19/3235401, where it was found that there was sufficient evidence to support the contributions being sought.

Education

- 8.131. LCC Children and Family Services have requested a contribution towards education, based on a formula using the average cost per pupil place, against the anticipated likely generation of additional school places from the proposed development. Capacity at the nearest schools to the proposal for each sector of education (early years, primary, secondary and SEN) is then considered and it is

determined whether the proposal would create demands upon these services. The total contribution is £612,864.00

- 8.132. The contribution towards addressing the impact of the development upon education is required for compliance with Policy DM3 of the adopted SADMP and addressed the impacts of the development on essential infrastructure within the local area. This helps to meet the overarching social objectives within the NPPF helping to contribute to sustainable development, thus is necessary. The contribution is calculated by attributing a monetary value to the number of additional pupil places generated directly from the development and then requesting the money towards each sector of the education sector where there is an identified deficit of places, therefore the contribution directly relates to the proposal. The contribution is calculated using a methodology that is attributed to all developments of this typology across the county and has only been requested where there is an identified deficit of places. Therefore the contribution relates fairly and reasonably in scale and kind.

Civic Amenity

- 8.133. LCC Waste Management requested a contribution of £6,934.00 towards Barwell Household Waste Recycling Centre. It is calculated that the proposed development would generate an additional 1.054 tonnes per annum of waste and the contribution is to maintain level of services and capacity for the residents of the proposed development.
- 8.134. This contribution is necessary in meeting Policy DM3 of the SADMP and achieving the environmental objectives of the Framework in ensuring this facility can continue to efficiently and sustainably manage waste. The contribution directly relates the proposal as the contribution is calculated from the tonnage of waste the development is likely to generate and is directed towards the nearest facility to the proposal. The contribution fairly relates in scale and kind as the contribution is requested using a formula applied to developments of the scale and typology across the County.

Libraries

- 8.135. LCC Library services have requested a sum of £4,220 towards provision of additional resources at Hinckley Library, which are the nearest library to the development. The population catchment for Hinckley library is 44,669, and the proposed development is estimated to add a further 420 to the existing population. It is considered that residents of the development are more likely to access this service and therefore the s.106 should direct the contribution towards this service.

Highways

- 8.136. Highways contribution will be updated and reported via the late items once the formal consultation response has been received from the Highway Authority.

University Hospital Leicester (UHL)

- 8.137. UHL have requested a contribution to address NHS revenue shortfalls for acute and planned treatment. This is by way of a monetary contribution of £49,702.00 towards the 12 month gap in the funding in respect of A &E and planned care at the University Hospital, Leicester.
- 8.138. It is not considered that the payments to make up funding which is intended to be provided through national taxation can lawfully be made subject to a valid S106 obligation, and such payments must serve a planning purpose and have a substantial connection to the development and not be merely marginal or trivial. Notwithstanding the above, the legal requirements of reg. 122(2) of the CIL

Regulations 2010 (as amended) are also not satisfied due to the quality of information submitted by UHL to date. The contribution is not necessary, when funding for this type of NHS care is intended to be provided through national taxation. UHL is unable to demonstrate that the burden on services arises directly from the development proposed, opposed to a failure in the funding mechanisms for care and treatment. The request made is to meet a funding gap over the forthcoming 12 month period and is requested on commencement of development, consideration should be given as to whether it is likely that this development is likely to be built out and occupied by residents from outside of the existing trust area within 12 months, and therefore be the source of burden on services as calculated. UHL has not demonstrated through evidence that the burden on services arises fairly from the assessment of genuine new residents likely to occupy the dwellings. Further to this there are issues with the data and methodology used by UHL for example the inflated population projections compared to those used by Leicestershire Authorities when calculating housing need, or the failure to address funding needs from housing projections set out in the Joint Strategic Needs Assessment and Joint Health Wellbeing Strategy referred to in their request, therefore it has not been demonstrated that the request fairly and reasonably relates in scale and kind to the development proposed.

- 8.139. This request is therefore not considered to meet the test of the CIL Regulations.

Other matters

- 8.140. HBBC (Street Scene Services) have requested a condition to detail the waste collection and recycling strategy of the site, it is considered that this is an appropriate condition that meets the tests.
- 8.141. Objections have been received in respect of de-valuation of properties; however this is not a material planning consideration that can be taken into account.
- 8.142. Comments have been received in respect of loss of views, it should be noted that views can not be protected, and therefore are not considered 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 Core Strategy Policy 4 and Policies DM4 and DM10 of the SADMP. These policies are consistent with the Framework and are afforded significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the landscape character of the area and minor impact on the wider landscape character and as such there is some conflict with Policy DM4 and DM10 of the SADMP.
- 9.4 Weighed against this 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 140 houses (including up to 20% affordable homes). These additional houses and affordable houses have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area. As the proposal is mixed development, with commercial floorspace being proposed as part of the scheme, which would bring with it some economic benefits, with the equivalent of 524 FTE forecasted across the application site, which is a significant economic benefit to the scheme. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Further to this, paragraph 80 of the NPPF states that 'significant weight' should be given to the need to support economic growth and productivity, which should allow each area to build on its strengths and counter any weaknesses.

- 9.5 The proposal would result in the loss of agricultural land, using mapping available the land is identified as grade 2 and 3 Best and Most Versatile Land. Therefore, this does add to the value of the landscape, although given that the land is grade 3 and not 2 or greater and there is other agricultural land around Burbage, it is not considered this has significant weight in the planning balance.
- 9.6 Burbage is an identified Neighbourhood Plan Area; however, although the plan has been drafted, it is subject to an examination in public, which will be scheduled for a hearing later in 2020. This is due to a number of questions received from the examiner, therefore the plan can be afforded limited weight in the planning balance.
- 9.7 Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably out weigh the benefits of the scheme. It is therefore important to identify any further benefits. Following the three strands of sustainability the benefits are broken down into economic, social and environmental.
- 9.9 The proposal would result in economic benefits through the construction of the scheme through creation of jobs and constructions spend, albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services.
- 9.10 As discussed the proposal could deliver up to 140 dwellings, of which 20% 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 (POS), which is greater in size than the policy compliant position. The POS would be connected to existing pedestrian footpaths providing a benefit to the wider area.
- 9.11 Some environmental benefits would be provided such as additional planting through landscaping in the provision of open space. Additionally there would be some benefit for biodiversity associated with the reinforcement and new planting of hedgerow and trees around the site and the provision of SUDS which can be designed to include benefits to biodiversity, secured via condition.
- 9.12 It has been concluded that there would be moderate harm to the character of the area caused by the landscape and visual impact built development in this location. The proposal would extend development beyond the settlement boundary of Burbage and it is considered that the proposal would result in harm to the character and appearance of the area in conflict with Policy DM4 and DM10 of the SADMP DPD.
- 9.13 Whilst there is conflict with the strategic policies of the Development Plan only moderate localised landscape harm has been identified, it is considered on balance that the harm does not significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a whole.

Therefore, the presumption in favour of sustainable development does apply in this case and material considerations outweigh the conflict with some elements of the development plan.

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. The housing policies in the adopted Core Strategy and the adopted SADMP are 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.
- 11.2. Subject to conditions the proposal would not have any significant adverse impacts on residential amenity, vehicular or pedestrian safety, Ecology, Archaeology, Drainage and Air Quality and Noise. It is considered that the proposed development is in accordance with Policies DM6, DM7, DM10, DM11, DM17 and DM18 of the SADMP (2016).
- 11.3. The proposal would be in conflict with Policy 4 of the Core Strategy, DM4 and DM10 of the SADMP. These policies are in accordance with the Framework and have significant weight. The proposal, whilst involving development on open land, has been found to have a minor adverse localised impact on the character of the area and so there is some conflict with Policy DM4 and DM10 of the SADMP.
- 11.4. The scheme would provide economic benefits in the form of an extension to an existing category 'A' employment site, where there is an identified short term need to meet the market, and due to the size and scale of the proposed development the applicant as demonstrated there are no other suitable alternative sites. The application has demonstrated that it meets the requirement as set out by Policy DM20 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 140 houses (including up to 28 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, as well addressing an identified need for small to mid sized industrial units in this location and would contribute to economic growth and job creation. As such, although there is clear conflict with strategic Policy 4 of the Core Strategy and DM4 and DM10 of the adopted SADMP, there has only been moderate harm found.
- 11.6. On balance it is considered that the harm identified to the character and appearance of the countryside from new residential and commercial development would not significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a whole. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations 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 completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - 20% Affordable Housing, 75% affordable rented and 25% shared ownership
 - £4200 for library facilities at Hinckley Library
 - £616,864.00 for education
 - £85,183.92 Health Care Provision (GP Practices)
 - £289,192 POS
 - On-site Open Space requirement of at least 500m2 of equipped play area
 - Provision of opportunities for apprenticeships and work experience and employment and skills related training during the construction of the development.
 - Any Highway Contributions that may be requested and which are deemed to be CIL compliant
- Planning conditions outlined at the end of this report.

12.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

12.3. That the Planning Manager 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. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site boundary Plan Dwg NO. edp4824_d002f received on the 21 August 2019 access drawing 43859-5501-006 43859-5501-004 Rev B received 2 December 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. Application for the approval of reserved matters relating to the dwellings 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.

- 4. Application for the approval of reserved matters relating to the commercial uses shall be made within 2 years 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.

- 5. The development hereby permitted shall be implemented in general accordance with the illustrative masterplan dwg no edp4824_d041d received by the Council 21st September 2019 and the parameters contained within Section 5 of the Design and Access statement received on the 21 August 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).

- 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.

- 6. 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 Troon Way, Kensington Avenue and Tamarisk Close in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

7. No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

8. Notwithstanding the recommendations within the Phase 1 Ground Condition Assessment reference 43859/3501 dated 2019 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.

9. 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.

10. 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.

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

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

12. 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, and bat and bird boxes. 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.

13. Prior to commencement of development and site clearance, a badger survey shall be undertaken 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 of the Site Allocations and Development Management Policies Development Plan Document.

14. The layout submitted at Reserved Matters shall provide a natural vegetation buffer zone of at least 5m alongside all retained hedgerows of the application site.

Reason: To ensure that the development has a satisfactory landscaping scheme in the interests of Ecology in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. All ecological enhancements on the site shall be completed in complete accordance with Section 6 of the Ecology Appraisal (August 2019) before occupation of any dwelling or commercial unit.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

16. No development shall commence on site until a grass snake mitigation strategy has been submitted to the local planning authority for their approval in writing. The strategy shall be based on the enhancements detailed in

section 6 of the Biodiversity Impact Assessment. Only the approved strategy shall then be implemented on site.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

17. All landscape planting used within the informal/semi-natural open space and adjacent to the boundaries of the site shall be locally native species only, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory landscaping scheme in the interests of Ecology in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

18. 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.

19. 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.

20. 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.

21. 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 any dwelling or commercial unit.

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.

22. 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.

23. 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..

24. 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..

25. No demolition/development shall take place/commence until a written scheme of investigation for L2 Historic Building Survey and Topographic Survey has been submitted to and approved in writing by the Local Planning Authority. For the land and structures that are included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
- The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

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

Reason: To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with

Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

26. Prior to the commencement of development details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

27. Any reserved matters application shall be accompanied by a scheme for protecting the proposed and existing dwellings from noise from the road network and the commercial element of the development. The agreed scheme shall be completed in full accordance prior to first occupation of any dwelling.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

28. Any reserved matters application shall be accompanied with a scheme for protecting nearby residents from noise from commercial element of the development. The agreed scheme shall be completed in full accordance prior to first use of any commercial unit.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

29. Any reserved matters application shall include a landscape buffer of at least 20 metres in width and to include a landscape bund, between any existing and proposed dwellings and the commercial uses. The landscape buffer and any associated planting shall be implemented in full accordance prior to any occupation or first use of the site.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

30. Any reserved matters relating to scale and appearance shall restrict the height of any commercial building within 100 metres of any existing or proposed dwelling within the wider site to no more than 12 metres in height. Commercial buildings over 100 metres from existing and proposed dwellings shall be no more than 15 metres in height.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

31. Any commercial building within a 100 metres of any existing or proposed residential dwelling in the wider site, shall not operate other than between the hours:-

0730 – 1900 Monday – Friday
0800 - 1300 Saturdays
No hours on a Sunday

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

32. The commercial units approved by this permission shall be used for B2 and B8 and for no other purpose (including any other purpose in Schedule 2 to the Town & Country Planning (General Permitted Development) Order 2015), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure the proposed development is compatible with existing development in the locality in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

33. Prior to the occupation of any of the dwellings on site, full fibre broadband connection shall be made available and ready for use.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the NPPF (2019).

34. Upon occupation of each individual residential property on the development, residents shall be provided with a 'Waste Minimisation and Recycling Pack'. The details of this Pack shall be first agreed in writing by the Local Planning Authority (in consultation with Leicestershire County Council) and shall provide information to residents about sustainable waste management behaviours. As a minimum, the Pack shall contain the following:

- Measures to prevent waste generation
- Information on local services in relation to the reuse of domestic items
- Information on home composting, incentivising the use of a compost bin and/or food waste digester
- Household Waste Recycling Centre location, opening hours and facilities available
- Collection days for recycling services
- Information on items that can be recycled

Reason: In accordance with the National Planning Policy for Waste (2014).

12.3. Notes to Applicant

1. The applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief,

with this Department's "Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland" and with relevant Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

2. It is necessary, when carrying out works to tree(s) to be aware of the Wildlife and Countryside Act, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such wild bird. The times when birds are nesting is generally between the months of March to September inclusive.

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Planning Committee 4 February 2020
Report of the Planning Manager

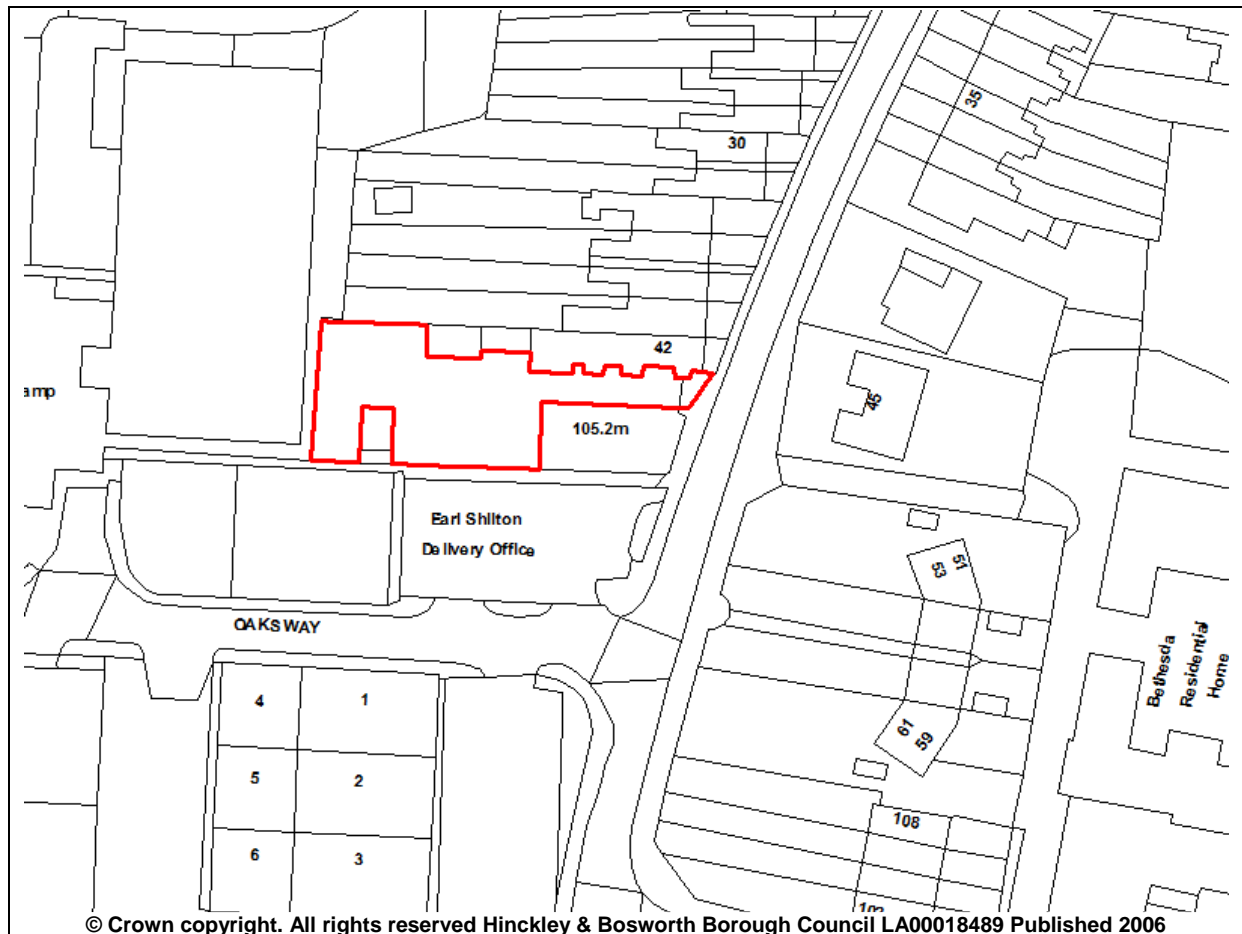
Planning Ref: 19/00742/FUL
Applicant: Mr David Cooper
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: 42 Station Road Earl Shilton

Proposal: Erection of four apartments



This application was taken to the previous Planning Committee on 7 January 2020. The previous report is attached to this report as Appendix A.

1. Recommendation

1.1 Grant planning permission subject to:

- Planning conditions contained in Appendix A and at the end of this report.

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

2. This application seeks full planning permission for the erection of four apartments in a two storey block comprising 2 x two bedroom units and 2 x one bedroom units. The block would be set well back from the highway towards the rear of the site and accessed by the existing shared drive owned

by a third party. An amenity space and bin and cycle storage areas are provided within the proposed layout. Two off-street parking spaces are proposed to provide one space each for the two bedroom units. The layout reflects the extent of the applicant's land ownership and the need to respect access to a third party owned parking space towards the rear of the site. There is a free public car park immediately to the south of the site providing 18 publically available spaces and 5 further spaces subject to existing permits.

3. The block would be located adjacent to the south boundary of the site set back from the existing apartments within 42 Station Road. The main elevation facing the highway is designed with traditional two storey bay windows with soldier brick headers and cills and brick corbels at eaves. The scheme proposes external materials of blue brick plinth, red facing bricks at ground floor and through coloured off-white render at first floor to give a traditional appearance and concrete interlocking roof tiles and grey aluminium windows and doors.
4. Outline planning permission (access, layout, scale) for the erection of up to 4 dwellings in a similar position within the site was permitted in November 2015 (reference 15/00181/OUT).
5. The minutes of the planning committee for this application state:
'Concern was expressed about lack of parking on site and restrictions for on street parking and in local car parks. It was MOVED by Councillor RG Allen and SECONDED by Councillor Gibbens that the application be deferred to investigate the possibility of requiring the applicant to provide parking permits for the nearby car park. Upon being put to the vote, the motion was CARRIED and it was RESOLVED – the application be deferred.'
6. The scheme raised no objections from the Local Highway Authority in respect of parking provision for the scheme in this case. However, following the feedback from Members at the previous planning committee meeting, the agent has indicated that the applicant is willing to obtain two car parking permits from the Council for use of the public car park immediately to the south of the site for the future occupiers of the 2 x 1 bed units as requested in the event that the planning permission is granted. An additional condition to secure this has therefore been added to the recommendation.
7. The officer's recommendation to approve the application subject to conditions remains as outlined in Appendix A to this report with an additional condition relating to the provision of two car parking permits below.
8. **Recommendation**
 - 8.1 **Grant planning permission** subject to:
 - Planning conditions contained within Appendix A and at the end of this report.
 - 8.2 That the Planning Manager be given powers to determine the final detail of planning conditions.

8.3 Additional Condition and Reason

11. Prior to the first occupation of any of the dwellings hereby permitted, two car parking permits for the adjacent Oaks Way public car park shall be provided for use by the occupiers of the scheme.

Reason: To ensure satisfactory parking provision and to reduce the possibility of on-street parking in the surrounding area to accord with Policy DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

APPENDIX A

Planning Committee 7 January 2020
Report of the Planning Manager

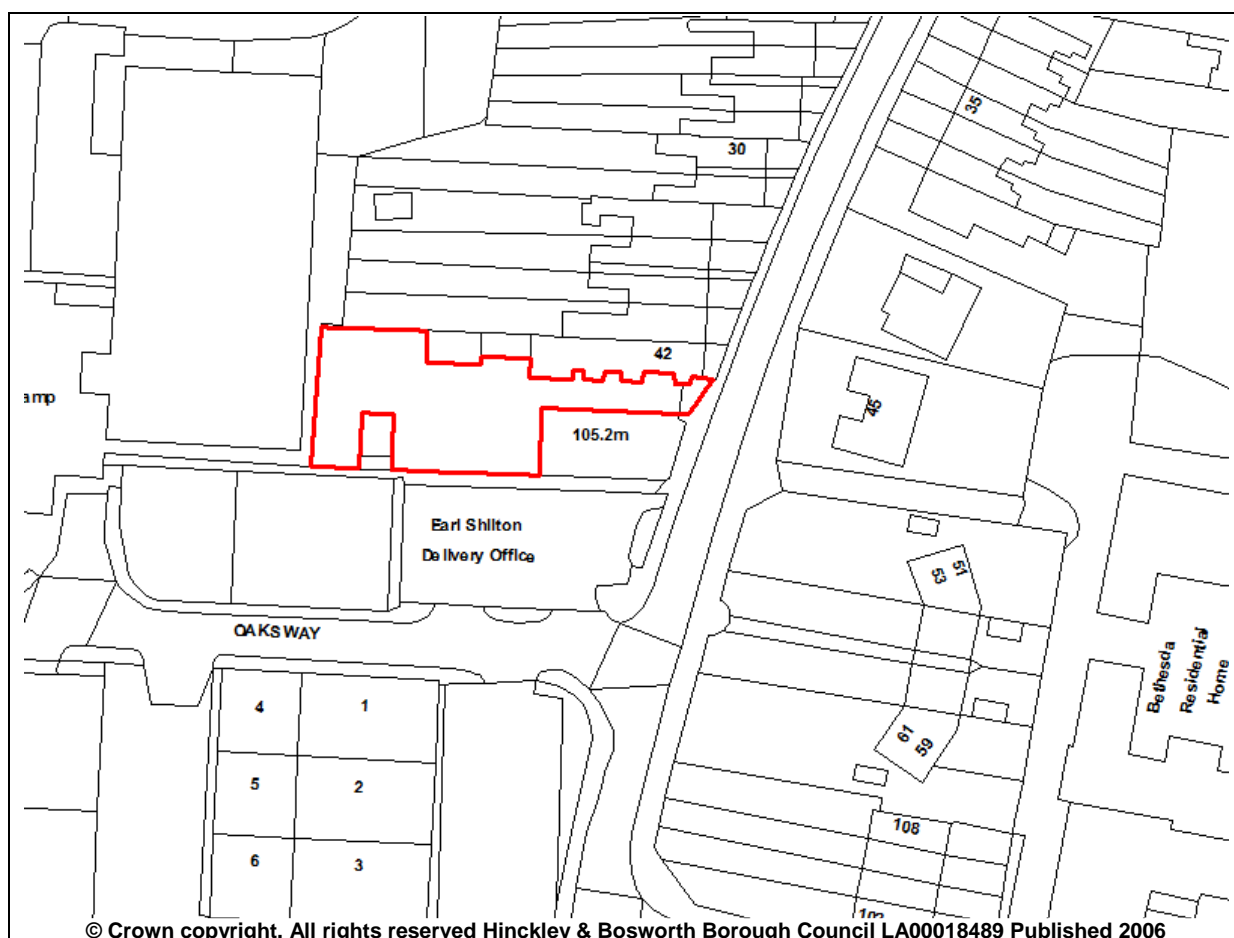
Planning Ref: 19/00742/FUL
Applicant: Mr David Cooper
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: 42 Station Road Earl Shilton

Proposal: Erection of four apartments



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

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

2. Planning Application Description

- 2.1. This application seeks full planning permission for the erection of four apartments in a two storey block comprising 2 x two bedroom units and 2 x one bedroom units. The block would be set well back from the highway towards the rear of the site and accessed by the existing shared drive owned by a third party. An amenity space

and bin and cycle storage areas are provided within the proposed layout. Two off-street parking spaces are proposed to provide one space each for the two bedroom units. The layout reflects the extent of the applicant's land ownership and the need to respect access to a third party owned parking space towards the rear of the site.

- 2.2. The block would be located adjacent to the south boundary of the site set back from the existing apartments within 42 Station Road. The main elevation facing the highway is designed with traditional two storey bay windows with soldier brick headers and cills and brick corbels at eaves. The scheme proposes external materials of blue brick plinth, red facing bricks at ground floor and through coloured off-white render at first floor to give a traditional appearance and concrete interlocking roof tiles and grey aluminium windows and doors.
- 2.3. A Design and Access Statement was submitted to support the application.
- 2.4. Amended plans have been received to address a number of issues raised during the course of the application and re-consultation has been undertaken.

3. Description of the Site and Surrounding Area

- 3.1. The application site lies within the settlement boundary of Earl Shilton close to the town centre on the west side of Station Road. The site measures approximately 750 square metres and comprises an unused area of land previously used as garden and hardstanding serving the original host dwelling.
- 3.2. The host dwelling, a two storey dual aspect traditionally styled end terrace house with bay windows, decorative stone headers and cills, has been subdivided and converted to two apartments. The external walls have been finished in a grey render and headers and cills painted white. It lies along the northern site boundary. The remainder of the north boundary is enclosed by a 3 to 4 metre high brick wall.
- 3.3. The host dwelling is set much further forward of the application site with only a small front garden enclosed by a metre high boundary retaining wall. A tarmac driveway to the immediate south of the host dwelling provides shared access to the site. There is a visibility splay defined by another metre high brick retaining wall and higher pillar to the south side of the access.
- 3.4. There are two storey terraced residential properties with long rear gardens and small front gardens on a staggered building line to the north of the site. Lower density dwellings in larger plots to the east of the site. A Co-op superstore building to the immediate west of the site and a commercial scale building used as a post office sorting depot and public car park on a lower ground level to the south of the site.
- 3.5. There are a number of mature/semi-mature trees along the southern boundary of the application site that are managed by the Borough Council and contribute significantly to the visual amenity of the site and the wider Station Road street scene.

4. Relevant Planning History

14/01185/OUT	Erection of two new dwellings (outline - access only)	Permitted	23.01.2015
15/00181/OUT	Erection of up to 4 dwellings (outline - access, layout and scale)	Permitted	20.11.2015
18/00710/FUL	Erection of 4 flats	Withdrawn	29.05.2019

5.0 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 Responses from six separate addresses have been received as a result of public consultation raising objections and concerns on the following grounds:-
- 1) Overdevelopment and will stretch the amenities/infrastructure of the nearby area;
 - 2) Insufficient parking/adverse impact on parking availability;
 - 3) Additional traffic using an access with substandard visibility on a busy road;
 - 4) Narrow pathway with restricted space for bin collection and bin storage area not big enough;
 - 5) Overshadowing and overlooking and loss of privacy to rear aspect and gardens;
 - 6) Encroachment of third party owned land and inadequate labelling on plans;
 - 7) Insufficient space available for the proposed parking and turning provision due to existing uses serving the other dwellings within the site;
 - 8) Adverse impact on pedestrian safety from additional vehicular use of the access;
 - 9) Loss of green space;
 - 10) Negative visual impact;
 - 11) Potential damage to existing dwellings, driveway and boundary walls during construction phase;

6. Consultation

- 6.1. No objection, subject to conditions, has been received from:
- Leicestershire County Council (Highways)
Environmental Health (Pollution)
Environmental Health (Drainage)
Street Scene Services (Waste)
Arboricultural Officer
- 6.2. Earl Shilton Town Council are pleased to see retention of the trees to the frontage but object on the grounds of inadequate off-street parking provision and highway and pedestrian safety grounds in respect of additional ingress and egress from the existing access.

7. Policy

- 7.1. Earl Shilton and Barwell Area Action Plan (AAP)(2014)
- No relevant policies
- 7.2. Core Strategy (2009)
- Policy 2: Development in Earl Shilton
 - Policy 19: Green Space and Play Provision
- 7.3. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.4. 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
- Impact upon highway safety
- Infrastructure contributions
- Other issues

Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009), the Earl Shilton & Barwell Area Action Plan (ES&BAAP) 2006-2026 and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.3. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. 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 Government's Housing Delivery Test and the Council is currently unable to demonstrate a 5 year housing land supply.
- 8.4. Notwithstanding this, Policy 2 of the adopted Core Strategy supports housing development within the settlement boundary of Earl Shilton. The application site is located within the settlement boundary in a sustainable urban location close to a full range of services and facilities that can be accessed by sustainable transport modes where residential development is generally acceptable in principle and supported by the overarching principles of the NPPF. The proposal would therefore be in accordance with adopted strategic planning policies, subject to all other planning matters being satisfactorily addressed. Outline planning permission for up to 4 dwellings on the site was permitted in 2015 but has now expired.

Design and impact upon the character of the area

- 8.5. Policy DM10 of the adopted 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 and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally with the intention of preventing development that is out of keeping with the character of the surrounding area.
- 8.6. An objection has been received on the grounds of negative visual impact.
- 8.7. Overall, the surrounding area has a mixed character with residential, retail and commercial/industrial buildings adjacent to the site. To the north of the application site there are two storied traditionally styled terraced houses on a staggered building line and with long rear gardens. The host dwelling has been converted to two apartments with shared amenity and parking spaces. The conversion has

already changed the character of the application site from that of a private rear garden. The site is well screened to the south boundary by a line of mature trees and a commercial scale industrial building and from the west by a Co-op superstore building.

- 8.8. The proposed apartment block would be set back much further from the Station Road highway than the host building. The siting of the block and parking spaces reflects the two separate parcels of land within the wider site owned by the applicant and the desire for a layout that enables retention of a number of mature trees along the southern boundary with the public car park that add significantly to the visual amenity of the Station Road street scene. The Borough Council's Arboricultural Officer considers that conditions could be imposed to ensure satisfactory protection of the trees during construction should the application be approved.
- 8.9. By virtue of the existing mature trees that are to be retained and the commercial scale industrial building adjacent to the south boundary, the proposed apartment block would not be overly prominent in the Station Road street scene or adversely affect the visual appearance of the surrounding area. Proposed levels information has been submitted to demonstrate that the scheme would result in a satisfactory relationship with existing neighbouring buildings. The design includes traditional architectural features and detailing such as two storey bay windows and brick corbelled eaves to reflect the traditional style of the host dwelling. Proposed materials include red facing bricks at ground floor and off-white render at first floor which also reflects a traditional appearance.
- 8.10. Notwithstanding the objection received, by virtue of existing development to the south and west of the site and retention of the mature trees, the layout, two storey scale, and traditional design and appearance of the scheme would complement the character of the surrounding area and would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings and that the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.12. Objections have been received on the grounds of overshadowing and loss of privacy from overlooking to neighbouring properties rear aspect and gardens and adverse impacts on existing residents from additional use of the vehicular access.
- 8.13. The amended scheme proposes a single two storey block of four apartments located adjacent to the southern boundary of the site and between 8 – 8.5 metres to the south of the 4 metre high north boundary wall and completely offset to the south and rear of the host building. By virtue of its siting and scale, the block would not result in any significant adverse overbearing or overshadowing impacts on any neighbouring properties. Notwithstanding that there would be windows at first floor in the north elevation facing towards residential gardens, by virtue of the separation distance to the boundary and the height of the existing boundary wall these windows would not result in any significant loss of privacy from overlooking.
- 8.14. In respect of the amenity of the future occupiers of the site, Environmental Health (Pollution) identify that there appear to be items of plant/equipment located on the roof of the adjacent commercial building in close proximity to the proposed apartments. A condition is therefore recommended for a noise impact assessment to be carried out to assess any impact on future occupiers from noise from the

plant/equipment and to inform any necessary noise mitigation measures. The condition would be reasonable and necessary to protect the amenities of any future occupiers of the development.

- 8.15. Notwithstanding the objections received, by virtue of the proposed layout, scale and design, the scheme would not result in any significant adverse impacts on the residential amenities of any neighbouring properties and subject to satisfactory noise assessment/mitigation being undertaken would provide satisfactory amenity for future residents. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.16. 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. Paragraph 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.
- 8.17. Objections have been received on the grounds of adverse impacts on highway and pedestrian safety from additional use of an access with substandard visibility on a busy road and inadequate parking and turning provision within the site to serve the two existing and proposed additional dwellings. Objections have also been received on the grounds of adverse impacts on existing residents' safety from increased use of the shared access drive which runs adjacent to existing points of access/egress to the host building.
- 8.18. The vehicular access to the site currently serves the two existing apartments in the converted host building and the site provides adequate parking and turning for these dwellings which would be retained within the proposed site layout. Some of the open hard-surfaced areas within the wider site are not within the applicant's ownership and are allocated for exclusive use for existing residents of the apartments within the host dwellings for parking, turning, patios etc. The proposed development does not rely on the use of any of these third party owned areas for access, parking, turning or amenity space. An informative note could be included to define the extent of the development site.
- 8.19. The proposed layout includes two off-street parking spaces with satisfactory turning within the applicant's ownership and these would be allocated one each to the 2 x two bedroom units. No off-street vehicle parking would be provided to either of the 2 x one bedroom units. However, the site is in close proximity (90 metres) to the town centre and its full range of services and facilities by walking, secure cycle storage is to be provided to serve the development, there is a public car park (Oaks Way) adjacent to the south boundary of the site and there are on-street no parking restrictions on both sides of Station Road in the vicinity of the site. Under these circumstances, the proposed level of off-street vehicle parking provision is considered to be acceptable in this case for the scale of development proposed.
- 8.20. Leicestershire County Council (Highways) has assessed the amended scheme and considers that notwithstanding the existing restrictions to visibility, the existing access would be satisfactory to serve the quantum of development proposed without any improvements. This assessment is consistent with responses provided in respect of two previous schemes on the site for four new dwellings (references 15/00181/OUT and 18/00710/FUL). In addition, for the reasons outlined above the parking provision and internal layout is also considered to be acceptable. The local highway authority considers that subject to a condition to ensure the provision and

retention of the proposed parking and turning facilities, the scheme would not result in any significant adverse impacts on highway safety or the road network.

- 8.21. For the reasons given above and notwithstanding the objections received, the proposal would not result in any significant or severe adverse impacts on highway or pedestrian safety and would therefore be satisfactory in respect of Policy DM17 of the adopted SADMP and would not be in significant conflict with Policy DM18 of the adopted SADMP in this case.

Infrastructure contributions

- 8.22. 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. To support the provision of mixed, sustainable communities. 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.
- 8.23. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm 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.
- 8.24. Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant. However, in this case, the proposal is for only four small apartments the occupation of which would not result in any significant impact on existing play and open space facilities or other infrastructure services and facilities within the town. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued.

Other issues

- 8.25. Objections have been received on the grounds that there is insufficient space available at the highway boundary adjacent to the access for the siting of refuse/recycling bins on collection days to serve the existing and proposed dwellings and that the use of the narrow pedestrian highway footway would therefore be compromised.
- 8.26. Street Scene Services (Waste) recommends a condition in respect of storage and collection of waste and recycling. There is adequate space provided within the bin store within the site for storage and for collection at the highway boundary therefore the recommended condition is not considered to be necessary in this case. The agent also points to existing dwellings to the north of the site presenting bins for collection at the back edge of the highway footpath.
- 8.27. Amended plans have been submitted to address the issue of encroachment on third party owned land. Land ownership is a civil matter.
- 8.28. The issue of potential damage to existing dwellings, driveway and boundary walls during construction phase is a civil matter and not a material planning consideration.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this 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 site is within the settlement boundary of Earl Shilton in a sustainable urban location within close proximity to a full range of services and facilities where new residential development is generally acceptable in principle. By virtue of the siting, layout, scale, design and, subject to the use of satisfactory external materials to ensure a sympathetic appearance, the proposal would complement the mixed character and appearance of the surrounding area. Subject to conditions, the proposal would not result in any significant adverse impacts on the privacy or amenity of any neighbouring properties, the amenity of future occupiers of the development or highway or pedestrian safety. The scheme would be in accordance with Policy 2 of the adopted Core Strategy and Policies DM1, DM10 and DM17 and DM18 of the adopted SADMP. The proposal 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. That the Planning Manager be given powers to determine the final detail of planning conditions.

11.3. 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 - drg. no. 31306(08)001C and Topographic Survey drg No. 18202 received by the local planning authority on 5 July 2019 and Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L, Proposed Second Floor Plan drg.no. 31306(PD-01)002K, Proposed Roof Plan drg.no. 31306(PD-01)004K, Proposed Elevations drg.no. 31306(04)001K and Proposed Section drg.no. 31306(05)001K received by the local planning authority on 4 December 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. Development shall not begin until surface water drainage details and calculations, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the full details prior to the completion of development.

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

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

Reason: To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policies DM6 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

5. No development above foundation level shall commence on site until a scheme for protecting the proposed dwellings from noise from the adjacent commercial premises has been submitted to and approved in writing by the Local Planning Authority and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

Reason: To ensure that noise from the adjacent commercial premises does not become a source of annoyance to the future occupiers of the site in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on

the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

7. The development hereby permitted shall be implemented in accordance with the existing and proposed ground levels of the site, and proposed finished floor levels detailed on the approved Topographic Survey drg No. 18202 received by the local planning authority on 5 July 2019 and Proposed Section drg.no. 31306(05)001K received by the local planning authority on 4 December 2019.

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

8. The development hereby permitted shall not be occupied until such time as off street car parking and turning provision has been provided, hard surfaced and demarcated in accordance with Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L received by the local planning authority on 4 December 2019. The onsite parking and turning provision shall thereafter be permanently maintained.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

9. The development hereby permitted shall not be occupied until such time as covered secure cycle parking has been provided in accordance with Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L received by the local planning authority on 4 December 2019. The cycle parking shall be permanently maintained and kept available for such use at all times thereafter.

Reason: To promote travel by sustainable modes in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

10. The development hereby permitted shall not be occupied until such time as the private and communal amenity areas and bin store have been provided in accordance with Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L received by the local planning authority on 4 December 2019. The amenity areas and bin store shall be permanently maintained and kept available for such use at all times thereafter.

Reason: To ensure satisfactory amenity space and bin storage to serve the development hereby permitted in the interests of residential amenity in

accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk
3. In relation to Condition 5, the scheme should include assessment of the potential impacts of noise from the operation of the existing plant/equipment located on the roof of the adjacent commercial building on future occupiers of the site.
4. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
5. The applicant/developer is advised that, the open areas of the site outside the land ownership boundaries shown in red on the approved Ground Floor Plan Drawing No. 31306(PD-01)001L are for the exclusive use of the residents of the existing apartments and cannot be utilised by the future occupiers of the dwellings hereby permitted for any purpose whatsoever (including parking and turning) other than any legal right over the shared access drive.

Planning Committee 4 February 2020
Report of the Planning Manager

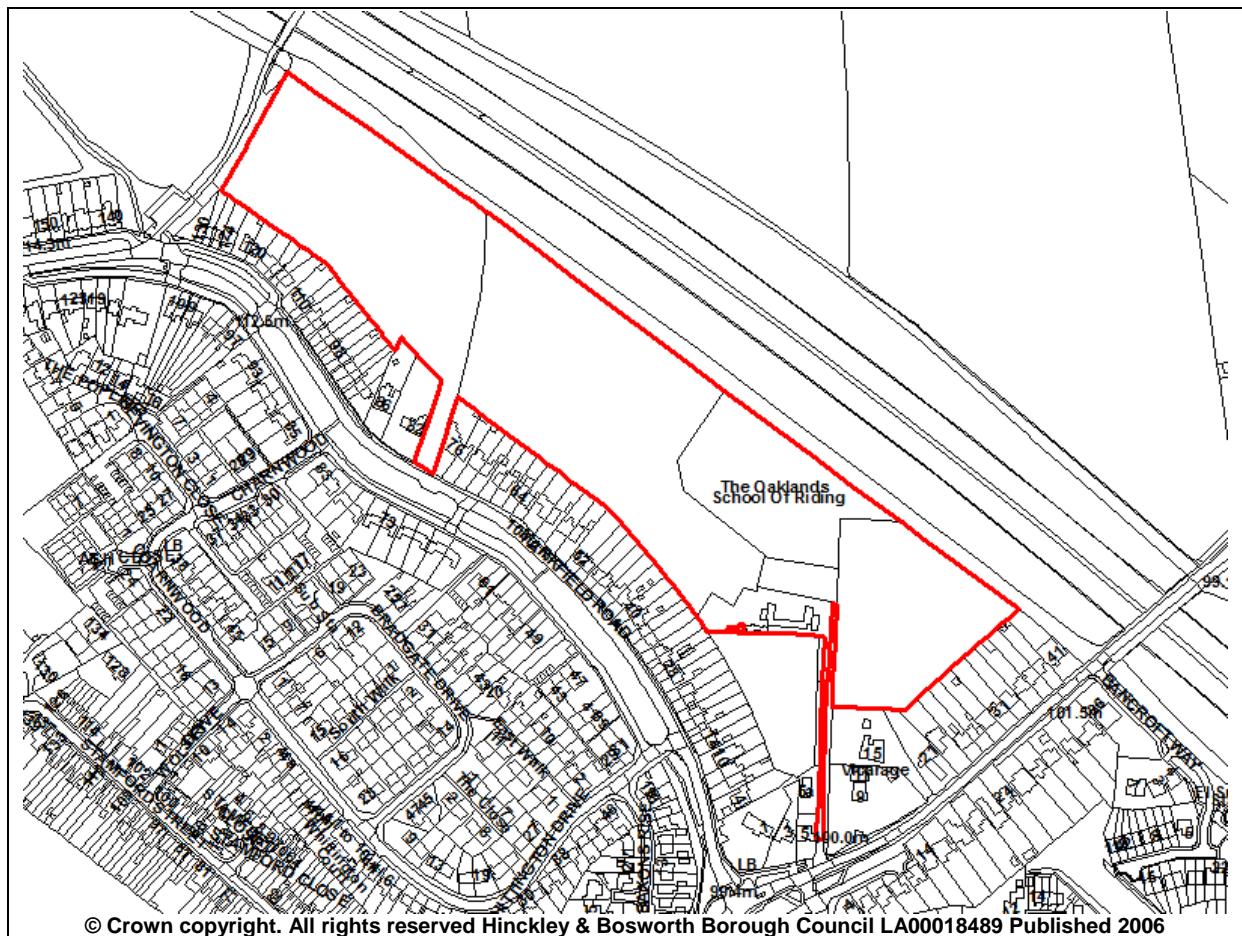
Planning Ref: 19/00680/OUT
Applicant: Charterhouse Strategic Land (1) Ltd
Ward: Ratby Bagworth And Thornton



Hinckley & Bosworth
Borough Council

Site: Springfield Riding School Groby Road Ratby

Proposal: Residential development up to 168 dwellings (Outline - access only) with associated means of access onto Markfield Road and Groby Road, car parking, new footpath links, amenity space and landscaping.



1. Recommendations

1.1. Grant planning permission subject to:

- The completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - 40% Affordable Housing, 75% affordable rented and 25% shared ownership
 - £5,070.00 for library facilities at Ratby Library
 - £94,833.37 for education
 - £109,890.00 Health Care Provision (GP Practices)

- On-site Open Space requirement of at least 605m² of equipped play area; 2822m² of Casual/Informal Play Space and 6720m² of natural green space along with maintenance costs.
 - Off-site Open Space contribution along with maintenance costs for 6451m² of outdoor sports provision and any of the above natural green space required which cannot be accommodated on-site and maintenance.
 - Any Highway Contributions that may be requested and which are deemed to be CIL compliant
 - Planning conditions outlined at the end of this report.
- 1.2. That the Planning Manager be given powers to determine the final detail of planning conditions.
- 1.3. That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including the inclusion of any highway contributions and the trigger points and claw back periods of all the contributions.
- 2. Planning Application Description**
- 2.1. This application seeks outline planning permission for up to 168 dwellings with associated public open space, landscaping and infrastructure. All detailed matters are reserved for later determination, except access. The site has an area of approximately 6.2 hectares. A detailed access plan has been submitted which shows a new road off Markfield Road along with an emergency access/pedestrian/cycling access off Groby Road in the location of an existing vehicular access.
- 2.2. As the application is in outline format, the proposed housing mix is unknown. However, the applicant has identified that 40% of the housing to be provided would be affordable housing and so if 168 dwellings were to be provided this would result in 101 market dwellings and 67 affordable dwellings with a mix of 50 dwellings for social or affordable rent and 17 intermediate dwellings for shared ownership.
- 2.3. An indicative development framework and a parameters plan have been provided. The indicative framework shows the layout of up to 168 dwellings. Three areas of open space are proposed within the site along with public footpath links to an existing public footpath to the North West and to Groby Road to the south. Three attenuation areas are shown on the parameters plan.
- 2.4. The application is supported by the following technical documents:-
- Design and Access Statement
 - Geo Environmental Report
 - Arboricultural Impact Assessment
 - Topographical Survey
 - Air Quality Assessment
 - Transport Assessment
 - Traffic Impact Survey
 - Highway Technical Note
 - Trial Trenching Report
 - Framework Travel Plan
 - Planning Statement
 - Noise Report
 - Noise Exposure Assessment
 - Geotechnical Options Report
 - Statement of Community Involvement

- Landscape and Visual Impact Assessment
- Illustrative Landscape Strategy
- Archaeological Geophysical Survey Report
- Biodiversity Impact Assessment
- Ecological Impact Assessment
- Utilities Assessment
- Flood Risk Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site is delineated by the M1 motorway at its northern boundary. This northern site boundary is defined by mature tree cover which lines the southern edge of the M1 embankment which falls steeply from the site boundary by circa. 8m to the Motorway. The rear gardens of residential properties which front onto Markfield Road form the southern boundary of the application site with the rear gardens of properties along Groby Road forming the eastern boundary. The western boundary is defined by the public footpath alongside Martinshaw Wood. The Oaklands School of Riding occupies the southern portion of the site and this riding school is accessed via a private access road onto Groby Road. The built development and major infrastructure links give the area its semi-rural character.
- 3.2. The site slopes gently from west to east falling from a height of circa. 109m AOD on the western site boundary to circa. 103m on the eastern site boundary. The site also falls from the northern boundary with the M1 Motorway corridor from circa. 108m AOD to circa. 105m AOD within the central Site area. The site is not currently publicly accessible and there are no Public Rights of Way running through the site. However, there are a number of public rights of way within close proximity to the site including footpath R38/1 which lies to the immediate west of the Site on the edge of Martinshaw Wood.
- 3.3. The majority of the site lies within the National Forest. The site is also located within Landscape Character Area A – Charnwood Forest Settled Forest Hills (LCA – A) in the Landscape Character Assessment (2017) and lies immediately adjacent to Urban Character Area 8 – Ratby. The key characteristics of LCA – A in relation to the site are the small to medium scale field patterns interspersed with large areas of woodland cover and large clustered villages.

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. 190 letters have been received objecting to the following issues:
- 1) The local highway network cannot cope with 175 additional houses
 - 2) Markfield Road is used by emergency vehicles accessing the M1 and A50 and this proposal could generate 4500 additional vehicle movements per week along the road
 - 3) Impact on wildlife and ecology using the site in particular birds, bats, badgers and hedgehogs
 - 4) Loss of semi-improved neutral grassland
 - 5) Noise and pollution from construction activity
 - 6) The local schools and pre-schools are full
 - 7) Anti-social behaviour is experienced in the area

- 8) More than 300 residents attended a meeting with the developer to voice their objections
- 9) Increase in noise from the additional traffic
- 10) Proposed access from Markfield Road into the site is on a blind bend which has highway safety issues
- 11) The emergency access has insufficient vehicle and pedestrian visibility splays
- 12) The emergency access would interfere with the roots of trees protected by Tree Preservation Orders
- 13) Overlooking and loss of privacy into the rear gardens of the surrounding properties
- 14) Ratby is a village and does not require any additional housing. This proposal would add an additional 11% to the population of Ratby
- 15) Impact on Martinshaw Wood, an semi-natural ancient woodland from the 13th century
- 16) Possible additional 1500 houses planned in the area
- 17) Other housing schemes have been refused in the village including appeal decisions adjoining the site
- 18) Ratby has lost some of its services and facilities
- 19) The M1 may need to be widened in the future
- 20) Footpaths along Groby Road are very narrow for additional pedestrians
- 21) Ratby has exceeded its housing target in the SADMP
- 22) Loss of views to rear from properties on Markfield Road
- 23) Loss of value of existing properties
- 24) Surrounding gardens will be flooded
- 25) Already a lot of affordable housing schemes in Ratby
- 26) Only Ratby residents objected to the developer's consultation exercise as only Ratby residents were invited to the event
- 27) Proposal will affect Green Belt land, a Green Wedge designation and a SSSI
- 28) Housing next to a motorway will expose children to pollution
- 29) Ground disturbance will release carbon into the atmosphere
- 30) Loss of semi-improved grassland
- 31) Loss of ridge and furrow on the site
- 32) Concerns about the public consultation exercise for the application
- 33) Proposal not in accordance with NPPF with regards to meeting and widening the choice of places for existing and new communities
- 34) Higher ground levels on the site will affect amenity of surrounding properties
- 35) A previous application for housing has been refused on Markfield Road due to safety issues with the vehicular access

6. Consultation

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

HBBC Affordable Housing
 HBBC Environmental Services (Pollution)
 HBBC Waste Services
 Leicestershire Police
 Severn Trent Water
 LCC as Lead Local Flood Authority
 HBBC Drainage
 LCC Ecology
 LCC Archaeology
 National Forest
 Highways England
 HBBC's Arboricultural Officer

- 6.2. Woodland Trust object to the proposal raising the following issues:

- A 50 metre buffer around the veteran ash tree (T6) is recommended; The loss of a veteran tree would constitute the loss of an irreplaceable habitat.
- 6.3. Ratby Parish Council object to the proposal raising the following issues:
- Unacceptable levels of traffic and vehicles would be generated from the proposal;
 - Ratby has exceeded its housing requirements in the Core Strategy;
 - A previous proposal for 9 dwellings has been refused on highway safety grounds;
 - Detrimental impact on ecology and Biodiversity;
 - Impact on value of Martinshaw Woods;
 - Loss of ridge and furrow; and,
 - Access onto Groby Road is unsafe.
- 7. Policy**
- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres relating to Leicester
 - Policy 14: Rural Areas Transport
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 19: Green Space and Play Provision
 - Policy 20: Green Infrastructure
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4. Other relevant guidance
- Landscape Character Assessment (2017)
 - Landscape Sensitivity Assessment (2017)
 - Open Space and Recreation Study (2016)
 - Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA)
 - Affordable Housing SPD (2011)
 - Leicestershire Highways Design Guide
- 8. Appraisal**
- 8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flooding & Drainage
- Ecology
- Air Quality, Noise & Land Stability
- Archaeology
- Affordable Housing

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 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 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. Ratby is identified as a Key Rural Centre relating to Leicester. Policy 7 supports proposals within the settlement boundaries of Key Rural Centres that provide a mix of housing types and tenures as set out in Policies 15 and 16. Policy 8 of the Core Strategy provides the policy framework for each Key Rural Centre relating to Leicester. The first of the criteria seeks the provision of a minimum of 75 new homes in Ratby. This housing provision was exceeded when the SADMP was adopted in 2016 with extant planning permissions for 107 dwellings.
- 8.5. However, 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, in addition the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by Ministry of Housing Communities and Local Government (MHCLG). Therefore, the application should be determined in accordance with Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.6. The consideration under Paragraph 11 (d) is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.
- 8.7. This site lies outside of the settlement boundary of Ratby. A number of objections received state that the application site lies within land designated as Green Belt or Green Wedge. The application site is not designated as Green Belt land or as land within the Green Wedge. However, the land is identified as countryside on the

Borough Wide Policies Map and therefore Policy DM4 should be applied. Policy DM4 of the adopted SADMP seeks to protect the intrinsic value, beauty and open character and landscape character through safeguarding the countryside from unsustainable development.

8.8. Policy DM4 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;

8.9. The site does not fall under any of the categories identified in Policy DM4 as sustainable development and so there is a clear conflict between the proposed development and the policy.

8.10. Therefore, this housing proposal outside the settlement boundary of Ratby and within the countryside is contrary to Policies 7 and 8 of the Core Strategy and Policy DM4 of the SADMP. As such there is a conflict with the spatial policies of the development plan. However, paragraph 11(d) of the NPPF is engaged and therefore 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

8.11. 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.

8.12. 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.

Landscape and visual impact

- 8.13. The Borough's Landscape Character Assessment (2017) identifies the site within Landscape Character Area A - Charnwood Forest (LCA – A). This is characterised by a prominent elevated landform, diverse land uses, woodland cover of varying age including mature ancient woodland, small to medium scale field pattern interspersed with large areas of woodland cover. LCA – A is further characterised by its large clustered villages with strong suburban influences and distinct views to the urban edges of Leicester and its proximity to Leicester City and major transport infrastructure.
- 8.14. The application site is typical of the Landscape Character Area, with its small to medium field pattern which adjoins mature ancient woodland, its strong suburban influences and its proximity to Leicester City and major transport infrastructure. The site is not a 'valued landscape' for the purposes of Paragraph 170 of the NPPF, does not have any national or local designations and is not unique or remarkable for any landscape purposes.
- 8.15. The key sensitivity of LCA - A relevant to the application site is the late to post medieval enclosure, ridge and furrow as well as some assarts in and around Ancient Woodland which contribute to the sense of place and provides continuity to the agricultural past. The landscape strategies for this area are to ensure extensions are well integrated within this wooded landscape, to support the National Forest Strategy and to conserve the distinct and separate identity of Groby and Ratby, including the rural gap that separate the villages.
- 8.16. The application site also lies immediately adjacent to the urban area of Ratby which is identified as Urban Character Area 8 (UCA-8) within the Landscape Character Assessment. The key characteristics of Ratby as relating to the application site are that it is a historic hilltop settlement with open countryside setting to the west and south, its compact streetscene of narrow lands within the historic core which contrast sharply with the expansive design of later roads such as Markfield Road and the M1 as a strong urban influence.
- 8.17. An assessment is made of the landscape value within the submitted LVIA and it is concluded that the site has an overall medium landscape value taking in to account matters such as scenic quality, rarity, conservation interest, recreational value and landscape quality. There is no reason to disagree with this overall judgement. The application site is located immediately adjacent to the existing settlement edge, occupying a narrow strip of pasture on the southern edge of the M1 Motorway corridor. The presence of the existing settlement and those properties adjoining the immediate southern and eastern edges of the Site are a prominent characteristic feature of the Site and its immediate setting. The presence of the M1 corridor along the northern boundary is also a prominent characteristic of the landscape. As such, the application site is influenced by its proximity to both the settlement edge and motorway corridor which detract from the overall quality of the site and its immediate setting
- 8.18. This containment of the application site between the settlement of Ratby, the Motorway corridor and Martinshaw Wood also contributes to the high degree of separation between the site and the wider landscape context. As such the site provides only a limited contribution to the wider landscape with a limited influence upon the character of the LCA. In addition to this, the existing built form on site associated with the Riding Stables comprising low quality structures and containers are at odds with the open pastoral nature of the wider site.
- 8.19. The application proposal would replace open pasture land and an equestrian use with residential built form which would harm the landscape setting of the site. There

would also be a high impact on users of the public right of way and recreational users of Martinshaw Wood to the west. Elements of former ridge and furrow within the westernmost site area are also evident within the views from these receptors. The impact on views from Groby Road above the M1 motorway corridor and views to the south of the site has been assessed as having a medium impact.

- 8.20. Mitigation measures have been incorporated into the proposal which include the retention and enhancement of all existing boundary vegetation, large areas to the east which would remain undeveloped, landscape buffer/advanced native planting along the western/north-western boundary, retention of a veteran ash tree and tree planting within the site. The landscape harm identified to the local landscape area is identified as moderate. The LVIA also argues that the topography of the site is largely unaltered, the existing hedgerows and trees are retained and reinforced and new planting would provide high quality landscaping which would also incorporate increased connectivity through the creation of footpath networks and links through the site to the wider area resulting in negligible effects on the landscape character features of the area and providing a development that has taken in to account the key sensitivities of the LCA.
- 8.21. The LVIA concludes that there will be an adverse effect of moderate significance overall on the landscape given the change from pasture land to housing. With regards to the effect of the proposal upon the wider landscape context, it is considered that the proposal would result in an effect of moderate/minor significance overall. There is no reason to disagree with this assessment.
- 8.22. Therefore, the proposal would extend development beyond the settlement boundary of Ratby and it is considered that the proposal would result in a moderate degree of harm to the character and appearance of the area which would conflict with Policy DM4 and DM10 of the SADMP.

Urban Character

- 8.23. Ratby is a village situated on a hilltop with sloping land towards the floodplain of Rothley Brook. The Urban form is made up of a mixture of cottages, terraces and modern buildings with larger detached properties interspersed ranging from single storey to two storey. The local vernacular is red brick occasionally covered by modern render, pitched slate roofs and red brick chimney stacks are common features in the core of the settlement, with buildings that front onto the street. As the application has been submitted in Outline with matters of scale, layout and appearance reserved no assessment of the proposal in relation to the urban character is made. However, it is not considered that there is any reason that the proposal could not respond well to the features and characteristics of Ratby and there is recognition of this within the submitted Design and Access Statement.

Historic Environment

- 8.24. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses.
- 8.25. Section 16 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. 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 (paragraph 193).
- 8.26. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage

assets. All proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.

- 8.27. A landscape and visual impact appraisal, an Archaeological Geophysical Survey Report and a Trial Trenching Report have been completed and submitted as part of the application. In determining applications, paragraph 189 of the National Planning Policy Framework (NPPF) requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Following the submission of these documents Leicestershire County Council Planning Archaeology recommended that further work was required to be undertaken before the planning application was determined following evidence of prehistoric activity within Ratby.
- 8.28. A Trial Trenching Report was subsequently received which detailed further investigations across the site by way of the excavation of 16 trenches. This work was undertaken in accordance with both the NPPF and a Written Scheme of Investigation (WSI) as approved by LCC. LCC's Archaeologist confirms that they visited the site during the excavation of the trenches. They agree with the findings of the surveys in that there are remains of medieval plough furrows on some parts of the site along with the remains of three undated ditches and the potential for further archaeological remains of significance. However, they consider that further archaeological evaluation of the site and any subsequent mitigation arising from this can be secured through a pre-commencement condition. The findings of these further studies would then inform the siting and layout proposals submitted as part of any reserved matters proposal.
- 8.29. The Historic Environment Record (HER) for Leicestershire confirms that there are no designated or non-designated heritage assets located within the application site.
- 8.30. The proposal would therefore have a neutral impact upon the historic environment of Ratby and therefore accords with DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duties of sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and paragraphs 189 and 190 of the NPPF.

Impact upon neighbouring residential amenity

- 8.31. 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.
- 8.32. Objections have been received from local residents with regard to residential amenity by way of additional noise and traffic as well as loss of privacy and loss of a view. The loss of view is not a material planning consideration, unless this amounts to visual harm that is of a magnitude warranting public rather than personal interest. However, in this instance it is not considered that this is likely, subject to appropriate scale and layout, this is also the case with regards to loss of privacy. Harm arising from pollution (including noise, dust and air quality is considered separately further in the report).
- 8.33. Whilst there are existing dwellings adjoining the site boundary and there is a variation in ground levels on parts of the site, 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 168 dwellings with satisfactory separation distances, buffered landscape areas and without resulting in any significant adverse

impacts on the privacy or amenity of the occupiers of any neighbouring properties. Residential amenity for the future occupiers of the development is a matter that will be established through the submission of detail; however, there is no reason that this can not be achieved. A planning condition can be included to ensure that the finished ground levels on site and the finished floor levels of the dwelling houses are agreed prior to development commencing.

- 8.34. 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.
- 8.35. The proposal is therefore considered to be in accordance with Policy DM10 as the amenity of neighbouring occupiers of the proposed development would not be adversely affected to warrant refusal of the application.

Impact upon highway safety

- 8.36. 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.
- 8.37. Access is a matter for determination by this application and a detailed access plan has been provided. In addition to this, the proposal has been supported by the submission of a Transport Assessment and Travel Plan that conclude the proposal would not have adverse impact upon the safe operation of the local highway network.
- 8.38. The detailed access plan shows a 6.75m carriageway extending into the site from Markfield Road with a 2m wide footway on the western side of the proposed access, which would extend into the site to allow for pedestrian access. At its junction with Markfield Road, an uncontrolled crossing, comprising dropped kerbs would be provided. The access plan illustrates visibility splays of 2.4m x 46 and 2.4m x 56 metres.
- 8.39. The dimensions of the access ensure an allowance is made for the largest vehicles expected to regularly access the site, such as refuse collection vehicles, to do so in a safe manner without disruption to other road users and without over-designing. A swept path analysis has been carried out of the site access and is provided and an appendix to the Transport Assessment.
- 8.40. Reserved Matters applications will specify sufficient parking, both in terms of numbers and dimensions, to comply with the relevant standards at the time of submission, as will the internal road layout.
- 8.41. The existing vehicular access into the site from Groby Road would continue to access the two properties off Groby Road. However, access into the application site would be restricted to emergency access only through the use of bollards. This access would be available for use for pedestrians and cyclists.

- 8.42. LCC as the Local Highway Authority has advised that whilst they are not in a position to issue a formal consultation response at present, in their view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. They suggest that the development proposal is acceptable in highway safety terms subject to the imposition of a number of planning conditions. They indicate that one of these conditions will be for the submission of a scheme of traffic calming for Markfield Road prior to the commencement of development and its implementation would be required before any dwelling was occupied. Such traffic calming measures are necessary to achieve the required visibility splays from the vehicular access.
- 8.43. A further report will be made available for the planning committee's consideration prior to the meeting with regards to the issue of highway safety from this residential proposal.

Flooding and Drainage

- 8.44. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding. A Flood Risk Assessment (FRA) has been submitted with the application in accordance with paragraph 163 of the NPPF.
- 8.45. The site is located within Flood Zone 1 being at low risk of fluvial flooding and therefore passes the Sequential Test and does not require the Exception Test to be undertaken. There are no recorded flooding incidents on the site. However, some of the objection letters have indicated that the gardens to the south and south west of the site have experienced flooding from water draining off the site. The FRA indicates that as the site is currently not positively drained, the source of this flooding is likely to be surface water or groundwater. The proposal is for surface water from the proposed development to be intercepted by a sustainable drainage scheme. Attenuation storage would be provided by three attenuation basins located across the site. Runoff would be released from the site at greenfield runoff rates to ensure that flood risk downstream is not increased.
- 8.46. The Lead Local Flood Authority raise no objection to the Surface Water Drainage Strategy proposal subject to conditions requiring the submission of a surface water drainage strategy which will require full construction details. It is recommended in the FRA that finished floor levels should be set a minimum of 150mm above the existing ground levels to reduce the risk of flooding to the properties. This can be conditioned.
- 8.47. Severn Trent Water, the Lead Local Flood Authority and HBBC Drainage have no objection to the proposals for handling surface water drainage on site, subject to conditions. Therefore the proposed development is considered to accord with Policy DM7 of the SADMP and would not create or exacerbate flooding and the proposed development is located in a suitable location with regard to flood risk.

Ecology

- 8.48. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.49. Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.50. The presence of protected species is a material consideration in any planning decision, it is essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals is established prior to planning

permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions.

- 8.51. An Ecological Impact Assessment (Brindle & Green, June 2019) has been submitted with the application and was found to be satisfactory by LCC (Ecology). The site has a remarkable population of slow-worms which is classed as being of 'district' level importance. LCC Ecology has visited the site and confirmed that the 6 areas to be retained in the Biodiversity Impact Assessment for ecological enhancement are satisfactory. These areas are also shown on the Parameters Plan. In particular Area 1 would be the proposed grassland restoration area for slow-worms and Area 4 would be species-rich grassland. These areas should be retained and enhanced for their biodiversity value rather than as amenity grassland open spaces. Indeed, the proposal does include areas of opportunity for net gain in biodiversity, of particular note are the undeveloped areas, the SUDs features that should be designed for biodiversity and the species-rich grassland which can be created. It should also be noted that only native species would be used in the landscaping scheme.
- 8.52. LCC Ecology has advised a number of planning conditions should be imposed on any consent granted. One of these planning conditions is the requirement for the provision of an acceptable slow-worm mitigation plan to be agreed and implemented for the provision of the mitigation area and for the translocation of individuals from other parts of the site.
- 8.53. The Woodland Trust has expressed concerns about the proposed residential development in close proximity to a veteran tree on the site. The veteran tree relates to an Ash Tree close to the proposed access and to the rear of the properties on Markfield Road. Although acknowledged that Natural England's Standing Advice does not specifically recommend a 50 metre buffer, the Woodland Trust do recommend that there should be no development within this tree's root protection area as its loss would constitute an irreplaceable habitat. The Council's Arboricultural Officer has inspected the veteran tree. He advises that the tree could be managed with a heavy crown reduction and retained within the proposed development layout with a 21 metre root protection area. He also advises that subject to the submission of an appropriate protection plan, the trees shown to be retained on site can be successfully retained and the loss of those trees to be removed could be adequately mitigated by agreeing a planting scheme.
- 8.54. The proposed development lies some 12 metres from the boundary with Martinshaw Wood which is an ancient woodland. Concerns have been raised by LCC's Ecologist, the Woodland Trust, the National Forest and the Council's Arboriculturalist about the proximity of the proposed residential development to the boundary with Martinshaw Wood. The Council's Arboriculturalist recommends that buffering of the Martinshaw Wood boundary should be sought. The parameters plan submitted does include an acoustic barrier along the majority of the boundary near Martinshaw Wood along with an area of natural green space along this north western boundary to provide this buffer. However, there is a need for a pedestrian link to be provided from the site to public footpath R38/1 which runs alongside Martinshaw Wood in order to increase the permeability of the proposal. This pedestrian link would still be feasible where the acoustic fence as shown on the parameters plan.
- 8.55. LCC Ecologist's recommends that the lighting proposed near to Martinshaw Wood should be minimised to 1 lux or below to prevent any light spillage into this ancient

woodland. This is a reasonable requirement which can form part of an appropriately worded planning condition.

- 8.56. Based on the above, it is considered that the impact of the proposed development on protected species is in accordance with Policy DM6 of the SADMP DPD and the general principles of the NPPF.

Air Quality, Noise and Land Stability

- 8.57. Policy DM7 of the SADMP seeks to ensure that adverse impacts from pollution are prevented, this include impacts from noise, land contamination and light.

Air Quality

- 8.58. An Air Quality Assessment has been provided with the application, this was based on the figures from the Transport Assessment. Road traffic emissions were modelled using the dispersion model ADMS-Roads and concentrations of nitrogen dioxide and particulate matter were predicted at identified sensitive receptor locations. The development was not predicted to result in any new exceedances of the relevant air quality objectives and the impact of the development on local air quality was predicted to be 'negligible' in accordance with the guidance.
- 8.59. In view of the site's location alongside a busy Motorway, the Air Quality Assessment also considered the suitability of the application site for the proposed residential use with regard to air quality. The report concludes that pollutant concentrations were predicted to be below the relevant air quality objectives and so the application was considered to be suitable for residential use. Following the submission of additional information the Council's Environmental Services (Pollution) (EHO) has confirmed that they have no objection to the findings of the Assessment.

Noise

- 8.60. The application is supported by a Noise Impact Assessment Report. The Council's EHO has confirmed that the results of this survey conclude that the internal noise standards can be achieved inside the dwellings proposed with the provision of specific glazing, acoustic trickle ventilation and a mechanical ventilation system. Whilst acoustic fencing along the motorway boundary would reduce the noise levels experienced for users of the private amenity space, the noise levels across some areas of the site would slightly exceed the desirable noise standard of 50dB.
- 8.61. The Council's EHO has stated that additional noise mitigation measures are possible including increasing the height and design of the acoustic fence along with maximising protection through the design of the housing layout at the reserved matters stage. Planning conditions are suggested that require further noise surveys to be submitted with the layout which accompanies a reserved matters application along with appropriate mitigation. The Council's EHO does not object to this approach and the relevant conditions are considered to meet the tests as set out in the NPPF.
- 8.62. Therefore, with regard to the noise comments made by the Council's EHO, the relaxation of external noise standards in the region of no more than 5dB would be appropriate in this instance given the Council's current housing shortfall, the similarities of this proposal with a recent residential development in Ratby (Bancroft Way, Buttercup Grove, and Wagtail Close) which is also adjacent to the M1 motorway and further noise mitigation and protection measures provided at the reserved matters stage, Compliance with the planning conditions would ensure a robust package of mitigation measures is delivered as part of the development of the site and that sufficient space is available (as shown on the parameters plan) to accommodate such measures. Therefore, the proposal would comply with Policy DM7 of the SADMP (2016).

Land Contamination/Stability

- 8.63. The proposal relates to ground works close to the motorway embankment. Concerns have been raised by Highways England regarding the geotechnical aspects of the scheme and the proposed site boundary treatment. A Geotechnical Options Report containing a Risk Register has been produced by BWB to address these concerns. Highways England has assessed this report and confirmed that they have no objections to the proposal subject to the imposition of pre-commencement conditions which require the agreement of the actual bund size and geometry (plus effects of acoustic fence/barrier) prior to the submission of any reserved matters application. Further details of the management and maintenance of the noise bund and its vegetation are also requested along with surface water run off drainage of the bund slopes. It is considered that the conditions requested by Highways England are reasonable and necessary to ensure that the proposal does not impact on the motorway carriageway.
- 8.64. The application is accompanied by a land contamination report. This report has found areas of made ground. As such, the Council's EHO, has recommended that planning conditions are imposed on any consent granted to ensure that any contamination found on site is remediated.
- 8.65. A number of objections have been received raising concerns about noise, dust and vibration during the construction phase. The Council's EHO has requested a condition to control the hours of construction to hours that are considered acceptable. A construction environmental plan is also requested to detail how the impact from dust, odour, noise, smoke, light and land contamination will be managed during the construction phase.
- 8.66. Based on the above assessments the proposal would comply with the requirements of Policy DM7 of the SADMP which seeks to ensure that adverse impacts from pollution are prevented which include impacts from noise, land contamination and light.

Archaeology

- 8.67. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 8.68. LCC (Archaeology) state that the Leicestershire and Rutland Historic Environment Record indicate that the proposed developed site has a potential for the presence of archaeological remains. As discussed in the character and appearance section above, following the submission of these documents Leicestershire County Council Planning Archaeology recommended that further work was required following evidence of prehistoric activity within Ratby.
- 8.69. A Trial Trenching Report was subsequently received which detailed further investigations across the site by way of the excavation of 16 trenches. This work was undertaken in accordance with both the NPPF and a Written Scheme of Investigation (WSI) as approved by LCC. LCC's Archaeologist confirms that they visited the site during the excavation of the trenches. They agree with the findings of the surveys in that there are remains of medieval plough furrows on some parts of the site along with the remains of three undated ditches and the potential for further archaeological remains of significance. However, they consider that further archaeological evaluation of the site and any subsequent mitigation arising from this can be secured through a pre-commencement condition. The findings of these

further studies would then inform the siting and layout proposals submitted as part of any reserved matters proposal.

- 8.70. The pre-commencement condition is considered to meet the tests as laid out in the NPPF and should be applied as requested to ensure that the proposal complies with the requirements of Policy DM13 of the SADMP.

Affordable Housing, Housing Mix and Density

- 8.71. Policy 15 of the Core Strategy requires residential development in rural areas to provide 40% Affordable Housing with a tenure split of 75% social or affordable rented and 25% intermediate housing. The details submitted with this application would suggest that based upon the delivery of 168 dwellings were to be provided this would result in 101 market dwellings and 67 dwellings would be affordable, with a mix of 50 dwellings for social rent and 17 intermediate dwellings for shared ownership.
- 8.72. 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 Ratby. The density of the housing contained within the development framework parameters is on average 34 dwellings per hectare. However, lower densities will occur on the edges of the site, whilst higher densities will be located along the primary vehicular route and towards the existing settlement edge. This is considered an acceptable design approach to achieve a balance between efficient use of land, whilst assimilating with the character of the area.
- 8.73. The density of the site area overall would see a net density much lower than the anticipated 34dpa. However, this is considered acceptable, when the site provides for an extensive amount of accessible informal open space within and around the edges of the site, and also offsets the boundaries of the development from the surrounding hedgerows, hedgerow trees and motorway. The density of the area identified for built development is policy compliant.
- 8.74. On 3.7.19 the Council's Housing Register had 1111 applicants for the Borough for the following property sizes:
- For 1 bedroomed properties 493 applicants
 - For 2 bedroomed properties 405 applicants
 - For 3 bedroomed properties 166 applicants
 - For 4 or more bedroomed properties 47 applicants.
- 8.75. There are 54 applicants on the housing register who indicate they have a connection to the parish of Ratby. Of this number, 22 are waiting for 1 bed properties, 25 for 2 beds, 6 for 3 beds and 1 for a 4 bed. A housing mix condition can be applied to the proposal so that the mix proposed at Reserved Matters is in accordance with the most up to date housing need assessment. This mix should include a small number of 2 bedroomed bungalows. The affordable housing should be spread evenly throughout the site in small clusters as set out in Key Policy Principle AH 3: Design and Layout in the Affordable Housing Supplementary Planning Document.
- 8.76. The Section 106 agreement should contain a requirement for applicants in the first instance to have a local connection to Ratby, with a cascade in the second instance for a connection to the Borough of Hinckley and Bosworth. Overall it is considered that the proposal is compliant with the provisions of Policies 15 and 16 of the Core Strategy.

Infrastructure Contributions

- 8.77. 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.
- 8.78. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (As Amended) (CIL) and paragraph 56 of the Framework. The CIL Regulations and NPPF confirm 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.

Affordable Housing

- 8.79. The developer will be obligated to provide 40% affordable housing, with a tenure split of 75% affordable rented and 25% intermediate (shared ownership).
- 8.80. This obligation is considered necessary as the provision of affordable housing is required for compliance with Policy 15 of the Core Strategy. This policy is consistent with Section 5 of the NPPF which seeks to deliver a sufficient supply of homes, to meet the needs of different groups within the community including those requiring affordable housing. Policy 15 seeks to provide affordable housing as a percentage of dwellings provided on site, therefore the obligation directly relates to the proposed development. The level of affordable housing represents the policy compliant position. The required (by condition) affordable housing mix is based on the housing waiting list for Ratby, and will be required to be delivered on a cascade approach with residents with a connection to Ratby. Therefore the obligation is directly related to the proposed development. The extent of the affordable housing obligation is directly related in scale and kind to the development as it represents a policy compliant position, expected by all development of this typology. No issues of viability have been raised with this scheme.

Play and Open Space

- 8.81. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016, updates these standards and also identifies the costs for off-site and on-site contributions. In line with the up to date standards identified in the 2016 study the table below identified the requirements for open space. There would also be a requirement for the maintenance of on-site open space provision for a 20 year period and for the maintenance of off-site open space provision for a 10 year period.

	Policy Requirement per dwelling based on 2.4 people per dwelling using CENSUS average	Requirement of open space for the proposed development of 168 dwellings (square metres)	Provided on site (square Meters)	Remaining requirement to be provided off site
Equipped Children's Play Space	3.6	604.8	All to be provided on site	N/A
Casual/Informal Play Spaces	16.8	2822.4	All to be provided on site	N/A
Outdoor Sports Provision	38.4	6451.2	None	£9.05 per m ² per dwelling
Accessibility Natural Green Space	40	6720	Unknown	£4.09 per m ² of shortfall per dwelling

- 8.82. In accordance with the Open Space and Recreation Study (2016) the number of dwellings proposed requires a Local Area of Play (LAP) and a Locally Equipped Area for Play (LEAP) to be provided on site. The submitted Development Framework indicates the provision of an equipped area for play centrally located within the site.
- 8.83. The developer would be obligated to provide and then transfer the on-site open space area to a management company, together with a maintenance contribution or, request that either the Borough Council or the Parish Council maintain the land. If the land is to be transferred to an authority then the area of open space would include a maintenance contribution.
- 8.84. The provision of Play and Open Space is required for compliance with Policies 8 and 19 of the Core Strategy and Policy DM3 of the adopted SADMP. These Policies are consistent with the NPPF in helping to achieve the social objective of sustainable development through promoting healthy and safe communities as addressed in section 8 of the NPPF. The provision of play and open space helps support communities health, social and cultural well-being and is therefore necessary. Core Strategy Policy 8 requires development in Ratby to address existing deficiencies in the quality, quantity and accessibility of green space and play provision. Policy 19 sets out the standards to ensure all residents within the borough, including those in new development have access to sufficient high quality accessible green spaces. The indicative only layout of the proposed development suggests the provision of open space around the site to include a LAP and informal space. Using the adopted Open Space and Recreation Study (2016) the closest public open spaces to the proposed site fall below the quality scores set by the Open Space and Recreation Study and therefore the obligations and contributions directly relate to the proposed development. The extent of the Open Space and Recreation contribution and provision is directly related in scale and kind to the development and its impacts upon surrounding publicly accessible open spaces. The delivery of these obligations is policy compliant and has been applied fairly as with all development of this typology, the developer is not obligated to provide anything above policy compliant position and therefore the contribution relates in scale and kind.

Highways

- 8.85. To be updated once the formal consultation response has been received from the Highway Authority.

NHS West Leicestershire CCG - Health Care

- 8.86. The West Leicestershire CCG has requested a contribution of £109,890.00 towards addressing the deficiencies in services at Ratby Surgery, which is the closest available GP practice to the development. An independent premises feasibility study has identified that this surgery is poorly laid out due to successive small extensions and so has no further room to expand. The recommendation on the final report was that the practice would need to relocate to new build premises to meet future demand. The practice partnership has invested in land within the village and is currently preparing their final business case and plans for a new surgery. An increase of 407 patients from the proposal would significantly impact on patient demand in the area.
- 8.87. The provision of a Health Care contribution is required for compliance with Policy DM3 of the adopted SADMP. The requirement of funding for Health Care Provision at identified local GP Surgeries, addresses the impacts of the development on existing and future need of this vital infrastructure provision, helping to meet the overarching social objectives contained within the NPPF in achieving sustainable development, thus making the obligation necessary. The identified increase in patients would have a direct impact on the local surgery at Ratby, as set out in the request, arising from the additional demand on services directly related to the population generated from the development. The extent of the Health Care contribution is directly related in scale and kind to the development, the obligation is calculated using population projections applied to all developments of this typology. The obligation sets out current capacity or otherwise of local services and how this proposal leads to direct impact, the developer is not obligated to provide contributions to address need in excess of that generated directly from the development, therefore the contribution fairly relates in scale and kinds to the development proposed.

Education

- 8.88. LCC Children and Family Services has requested a contribution towards education, based on a formula using the average cost per pupil place, against the anticipated likely generation of additional school places from the proposed development. Capacity at the nearest schools to the proposal for each sector of education (early years, primary, secondary and SEN) is then considered and it is determined whether the proposal would create demands upon these services. The total contribution is £94,833.37.
- 8.89. The contribution towards addressing the impact of the development upon education is required for compliance with Policy DM3 of the adopted SADMP and would address the impacts of the development on essential infrastructure within the local area. This helps to meet the overarching social objectives within the NPPF helping to contribute to sustainable development, thus is necessary. The contribution is calculated by attributing a monetary value to the number of additional pupil places generated directly from the development and then requesting the money towards each sector of the education sector where there is an identified deficit of places, therefore the contribution directly relates to the proposal. The contribution is calculated using a methodology that is attributed to all developments of this typology across the county and has only been requested where there is an identified deficit of places. Therefore the contribution relates fairly and reasonably in scale and kind.

Libraries

- 8.90. LCC Library services have requested a sum of £5,070 towards provision of additional resources at Ratby Library, which is the nearest library to the development. The development would be within 0.53km of Ratby Library. The contribution is calculated using a methodology that is attributed to all developments of this typology and has only been requested where there is a deficiency in stock level. Therefore the contribution relates fairly and reasonably in scale and kind.

University Hospital Leicester (UHL)

- 8.91. UHL has requested a contribution to address NHS revenue shortfalls for acute and planned treatment. This is by way of a monetary contribution of £62,128.00 towards the 12 month gap in the funding in respect of A &E and planned care at the University Hospital, Leicester.
- 8.92. It is not considered that the payments to make up funding which is intended to be provided through national taxation can lawfully be made subject to a valid S106 obligation, and such payments must serve a planning purpose and have a substantial connection to the development and not be merely marginal or trivial. Notwithstanding the above, the legal requirements of reg. 122(2) of the CIL Regulations 2010 (as amended) are also not satisfied due to the quality of information submitted by UHL to date. The contribution is not necessary, when funding for this type of NHS care is intended to be provided through national taxation. UHL is unable to demonstrate that the burden on services arises directly from the development proposed, opposed to a failure in the funding mechanisms for care and treatment. The request made is to meet a funding gap over the forthcoming 12 month period and is requested on commencement of development, consideration should be given as to whether it is likely that this development is likely to be built out and occupied by residents from outside of the existing trust area within 12 months, and therefore be the source of burden on services as calculated. UHL has not demonstrated through evidence that the burden on services arises fairly from the assessment of genuine new residents likely to occupy the dwellings. Further to this there are issues with the data and methodology used by UHL for example the inflated population projections compared to those used by Leicestershire Authorities when calculating housing need, or the failure to address funding needs from housing projections set out in the Joint Strategic Needs Assessment and Joint Health Wellbeing Strategy referred to in their request, therefore it has not been demonstrated that the request fairly and reasonably relates in scale and kind to the development proposed.
- 8.93. A similar request was considered by a Planning Inspector during the determination of appeal ref: APP/K2420/W/19/3235401, where it was found that there was insufficient evidence to support the contributions being sought. This request is therefore not considered to meet the test of the CIL Regulations.

Other Matters

- 8.94. HBBC (Street Scene Services) has requested a condition to detail the waste collection and recycling strategy of the site, it is considered that this is an appropriate condition that meets the tests.
- 8.95. 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 now required. 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 Core Strategy Policies 7 and 8 and Policies DM4 of the SADMP. These policies are consistent with the Framework and are afforded significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the landscape character of the area and a moderate to minor impact on the wider landscape character. There are also some minor adverse visual impacts identified, so there is some conflict with Policy DM4 of the SADMP.
- 9.4. Weighed against this 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 168 houses (including up to 67 affordable homes). These additional houses and affordable houses have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 9.5. Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably out weigh the benefits of the scheme. It is therefore important to identify any further benefits. Following the three strands of sustainability the benefits are broken down into economic, social and environmental.
- 9.6. The proposal would result in economic benefits through the construction of the scheme albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services.
- 9.7. As discussed the proposal could deliver up to 168 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 areas of public open space (POS). The POS would be connected to existing pedestrian footpaths providing a benefit to the wider area.
- 9.8. Some environmental benefits would be provided such as additional planting through landscaping in the provision of open space. Additionally there would be some benefit for biodiversity associated with the reinforcement and new planting of hedgerow and trees around the site and the provision of SUDS which can be designed to include benefits to biodiversity, secured via condition.
- 9.9. It has been concluded that there would moderate harm to the character of the area caused by the landscape and the visual impact of built development in this location would harm the open character of this area between the motorway and existing residential development. The proposal would extend development beyond the settlement boundary of Ratby and it is considered that the proposal would result in harm to the character and appearance of the area in conflict with Policy DM4 of the SADMP DPD.
- 9.10. Whilst there is conflict with the strategic policies of the Development Plan only moderate localised landscape harm has been identified. It is considered on balance that this level of harm does not significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a

whole. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations outweigh the conflict with some elements of the development plan.

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. The housing policies in the adopted Core Strategy and the adopted SADMP are 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.
- 11.2. Subject to conditions the proposal would not have any significant adverse impacts on residential amenity, vehicular or pedestrian safety, Ecology, Archaeology, Drainage and Air Quality, Noise and Land Stability. It is considered that the proposed development is in accordance with Policies DM6, DM7, DM10, DM11, DM17 and DM18 of the SADMP (2016).
- 11.3. However, the proposal would be in conflict with Policies 7 and 8 of the Core Strategy and Policy DM4 of the SADMP. These policies are in accordance with the Framework and have significant weight. The proposal, whilst involving development on open land, has been found to have a moderate adverse localised impact on the character of the area and so there is some conflict with Policy DM4 and DM10 of the SADMP.
- 11.4. 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 168 houses (including up to 67 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. As such, although there is clear conflict with strategic Policies 7 and 8 of the Core Strategy and Policy DM4 of the adopted SADMP, there has only been moderate harm found.

- 11.5. 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 when assessed against the Framework as a whole. 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. Subject to consideration of the statutory consultation response of LCC as Highway Authority it is therefore recommended that the application is approved subject to the conditions and planning obligations listed below.

12. Recommendation

12.1. Grant planning permission subject to:

- The completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - 40% Affordable Housing, 75% affordable rented and 25% shared ownership
 - £5,070.00 for library facilities at Ratby Library
 - £94,833.37 for education
 - £109,890.00 Health Care Provision (GP Practices)
 - On-site Open Space requirement of at least 605m² of equipped play area; 2822m² of Casual/Informal Play Space and 6720m² of natural green space along with maintenance costs.
 - Off-site Open Space contribution along with maintenance costs for 6451m² of outdoor sports provision and any of the above natural green space required which cannot be accommodated on-site and maintenance.
 - Any Highway Contributions that may be requested and which are deemed to be CIL compliant
- Planning conditions outlined at the end of this report.

12.2. Conditions and Reasons

1. Application for the approval of reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
 - a) appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes
 - b) landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges

- c) layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes.
- d) scale of each building proposed in relation to its surroundings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

3. Prior to the commencement of development a scheme which details the proposed market housing mix for the development that is in accordance with the Council's adopted Development Plan. 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.

4. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - a) Site Location Plan Drw No: 30893 SK01 Rev A received on 21 September 2019
 - b) Proposed Site Access Strategy Drw No: BR-514-0009 SK01 Rev D received on 9 December 2019
 - c) Pedestrian, Cycle and Emergency Access Drw No: 514-0009 TP SP04 received on 9 December 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).

5. No more than 168 dwellings shall be constructed on the site.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the SADMP (2016).

6. All reserved matters applications shall be in general accordance with the Parameter Plan (Drw No: SK-13) received by the local planning authority on 27 September 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).

7. Prior to the approval of any Reserved Matters under this permission, full details of the noise boundary treatment adjacent to the M1 motorway boundary shall be submitted to and approved in writing by the local planning authority. This shall include (but not be limited to):
 - a) A full stability analysis and a Geotechnical Report in accordance with DMRB CD 622 to demonstrate that the proposed noise bund does not cause any change in condition of the SRN earthworks and lead to unacceptable factors of safety on the Motorway cutting.

- b) Management and maintenance details of the noise bund and its vegetation.
- c) Details of the surface water run off drainage of the bund slopes, in line with the Department for Transport Circular 02/2013 'The strategic Road Network and the Delivery of Sustainable Development,' paragraph 50, stating that "no water run off that may arise due to any change of use will be accepted into the Highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems.'
- d) The approved noise bund shall be implemented in accordance with the approved details prior to the first occupation of the development.

Reason: To maintain the integrity of the M1 Motorway and to ensure that it continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act and in accordance with Policy DM17 of the SADMP (2016).

- 8. Prior to the commencement of development, details of the site's boundary fencing, ensuring there is no access to highway land, have been submitted to and approved in writing by the local planning authority. The approved fencing shall thereafter be constructed in accordance with the approved plans and maintained in perpetuity by the applicant.

Reason: To maintain the integrity of the M1 Motorway and to ensure that it continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act and in accordance with Policy DM17 of the SADMP (2016).

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

Reason: To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

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

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the Site Allocations and

Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

11. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units will conform to the guideline values for indoor ambient noise levels identified by BS 8233 2014 – Guidance on Sound insulation and Noise Reduction for Buildings, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

12. Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. 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. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016)

13. Works of site preparation and/or construction shall not take place in any phase other than between the hours of 07:30 hrs to 18:00 hrs Monday to Friday and 08:00 hrs to 13:00 hrs on Saturdays. There shall be no working on Sundays or on Bank or Public Holidays.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

14. No development shall take place until details on an acoustic fence to the boundary with the public footpath to the north west of the site, on land within the application boundary, have been submitted to and approved in writing by the local planning authority. None of the dwellings hereby approved shall be occupied until the acoustic fence has been erected in accordance with the approved details.

Reason: To reduce noise levels to the future residents and to mitigate against any impact on Martinshaw Woods in accordance with Policies DM6, DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

15. No development shall take place until details of the pedestrian links to be provided from the application site to public footpath R38/1 to the North West and to Groby Road to the south shall be submitted to and approved in writing by the local planning authority. None of the dwellings hereby approved shall be occupied until the footpath links have been implemented and made available for use in accordance with the approved details.

Reason: To improve connectivity of the site to the surrounding area in accordance with Policy DM1 of the SADMP (2016).

16. 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 in writing 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 the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

18. No development shall commence until drainage details for the disposal of surface water have been submitted in writing to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

19. Prior to the commencement of development details in relation to the management of surface water on site during construction of the development shall be submitted to, and approved in writing by, the Local Planning Authority. 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.

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

20. Prior to the commencement of development details in relation to the long term maintenance of the sustainable surface water drainage system on the development shall be submitted to and approved in writing by the Local Planning Authority. Details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate

elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the development site.

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.

21. No demolition/development shall take place/commence until a staged programme of archaeological work, commencing with an initial phase of trial trenching has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
- The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

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

Reason: To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

22. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

23. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority. The scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the SADMP (2016).

24. 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 Markfield Road in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

25. All landscape planting used within the informal/semi-natural open space and adjacent to the boundaries of the site shall be locally native species only, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory landscaping scheme in the interests of Ecology in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

26. The layout submitted at Reserved Matters shall provide a natural vegetation buffer zone of at least 5m alongside the northern, eastern and north-western boundaries of the application site and a buffer zone of at least 21m around the veteran Ash tree.

Reason: To ensure that the development has a satisfactory landscaping scheme in the interests of Ecology in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

27. All ecological enhancements on the site shall be completed in complete accordance with Section 6 of the Biodiversity Impact Assessment (Brindle & Green, September 2019) before occupation of any of the dwelling houses hereby approved.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

28. No development shall commence on site until a Slow-worm mitigation strategy has been submitted to the local planning authority for their approval in writing. The strategy shall be based on the enhancements detailed in section 6 of the Biodiversity Impact Assessment. Only the approved strategy shall then be implemented on site.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

29. 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 and all landscaping to informal play space and natural open space should be comprised of native species wildflower grassland. 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 SADMP.

30. Prior to the commencement of development details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). Light spill onto retained hedgerows and onto Martinshaw Wood shall be minimised to a value of 1lux or lower at the edge of habitats. The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

31. The development shall be carried out in full accordance with the working methodology, specified in Section 6 of the Biodiversity Impact Assessment (Brindle & Green) dated September 2019.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

32. Prior to the commencement of development on site a badger survey shall be submitted to the local planning authority for approval in writing. Should evidence of badgers be found on site then the survey shall include a mitigation plan.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

33. Prior to the occupation of any of the dwellings on site, full fibre broadband connection shall be made available and ready for use.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the NPPF (2019).

34. Upon occupation of each individual residential property on the development, residents shall be provided with a 'Waste Minimisation and Recycling Pack'. The details of this Pack shall be first agreed in writing by the Local Planning Authority (in consultation with Leicestershire County Council) and shall provide information to residents about sustainable waste management behaviours. As a minimum, the Pack shall contain the following:

- Measures to prevent waste generation
- Information on local services in relation to the reuse of domestic items
- Information on home composting, incentivising the use of a compost bin and/or food waste digester
- Household Waste Recycling Centre location, opening hours and facilities available
- Collection days for recycling services
- Information on items that can be recycled

Reason: In accordance with the National Planning Policy for Waste (2014).

35. Highway conditions that may be required following consideration of the consultation response from the Highway Authority.

12.3. Notes to Applicant

1. In relation to condition 16 and 17; advice from Health and Environment Services can be viewed via the following web address:- https://www.hinckley-bosworth.gov.uk/info/200075/pollution/177/contaminated_land site which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
2. With reference to condition 19 the scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations. Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pervious paving 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.
3. With reference to condition 19 details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
4. With reference to condition 20 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.
5. With reference to condition 21 the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, with this Department's "Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland" and with relevant Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

6. It is necessary, when carrying out works to tree(s) to be aware of the Wildlife and Countryside Act, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such wild bird.

The times when birds are nesting is generally between the months of March to September inclusive.

7. It is noted that the boundary treatments associated with this consent may involve works within the public highway and affect land over which you have no control. Highways England therefore would require you to enter into a suitable legal Section 278 agreement to cover the design check, construction and supervision of the works. Contact should be made with the Highways England Section 278 Business Manager David Steventon to discuss these matters on david.steventon@highwaysengland.co.uk.
8. Any highway notes that may be required following consideration of the consultation response from the Highway Authority.

Planning Committee 4 February 2020
Report of the Planning Manager

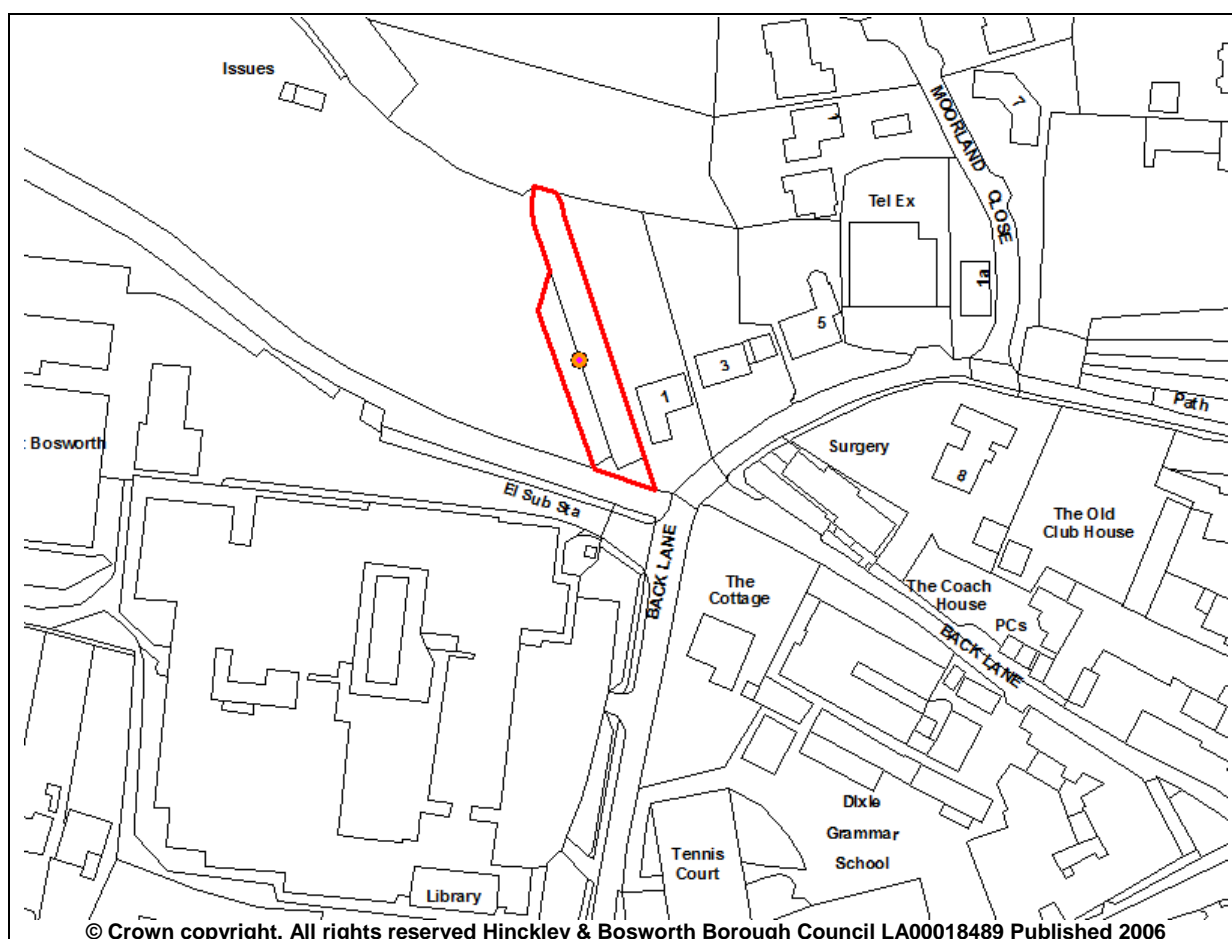
Planning Ref: 19/01035/FUL
Applicant: Mrs Judith Sturley
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Land Adjacent To 1 Back Lane Market Bosworth

Proposal: Erection of 1 No. detached dwelling



This application is to be considered by the planning committee in accordance with the scheme of delegation as the applicant is an employee of the council.

1. Recommendations

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

2. Planning Application Description

2.1. This application seeks full planning permission for the erection of one detached two storey dwelling on land adjacent to 1 Back Lane, Market Bosworth.

2.2. This application is a revised scheme of application 15/00716/FUL, which was previously refused. The previous application was refused for the following reasons:-
“The proposed dwelling due to its siting and location would detrimentally impact upon an important protected view and vista, an area of designated local green space and the importance of the historic setting of the Market Bosworth

conservation area as a designated heritage asset. The proposed development would conflict with Policies CE1, CE2 and CE3 of the Market Bosworth Neighbourhood Development Plan, Policies DM4 and DM10 of the emerging Site Allocations and Development Management Policies DPD, Policies BE1 and NE5 of the Hinckley & Bosworth Local Plan 2001 and Policy 11 of the Hinckley & Bosworth Core Strategy 2009. Furthermore the proposal would conflict with the aims of the National Planning Policy Framework and in particular paragraphs 17 and 133 - 134.”

- 2.3. The proposed dwelling is modern in its design and appearance covering a large part of the width of the plot. The design would comprise a large sloping roof measuring 7.6 metres in height to the ridge at the highest point when measured from the rear of the dwelling. The design also comprises a flat roof timber clad area to the front of the first floor and a flat roof brick area to the first floor. The length would measure 16.7 metres with the width measuring 5.3 metres at the widest point which is at the rear. An external terrace area is proposed to the rear at first floor level. Materials comprise locally sourced red brick with timber cladding and slate roof. Two bedrooms are proposed with a third bedroom/study also proposed.
- 2.4. Access to the dwelling would be served via a new driveway connecting to the existing track off Back Lane with parking proposed to the front of the dwelling for two vehicles.
- 2.5. An existing public footpath which runs through the site at present is proposed to be diverted to land adjacent to the dwelling.
- 2.6. The main change from the previously refused scheme is the reduction in height of the dwelling by 1.6 metres at the highest point. The dwelling is situated in an altered position, projecting further to the rear than the previous application.

3. Description of the Site and Surrounding Area

- 3.1. The site consists of two narrow parcels of land comprising of a 7 metre wide strip of land and a shorter 5 metre wide strip of land. Footpath S69 cuts through the application site from Back Lane and extends north into the wider countryside and it is proposed to be diverted west into a narrower section of land associated with the application site. The two parcels of land are separated by a boundary hedge. Land levels drop to the north of the site.
- 3.2. The southern boundary is defined via an existing track accessed off the corner of Back Lane. To the west of this is another public footpath with Market Bosworth Academy beyond to the south. Immediately adjoining the application site to the east is 1 Back Lane, a two storey brick built property, situated in a row of other residential properties along Back Lane, which are set at a similar depths along Back Lane.
- 3.3. The site is located outside of but adjacent to the defined settlement boundary and the Market Bosworth Conservation Area.

4. Relevant Planning History

14/00494/FUL	Erection of one new dwelling	Withdrawn	22.07.2014
15/00716/FUL	Erection of one detached dwelling (revised proposal)	Refused	23.12.2015
85/00852/4	Erection of dwelling outline	Refused	22.10.1985

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. As a result of the public consultation, responses from four separate addresses objecting to the application have been received on the following grounds-
- 1) If cars were to park on the site they could diminish the easement permitting rights of way on the land
 - 2) The applicant is laying claim to land which they do not own
 - 3) The proposal would spoil the views of the open countryside
 - 4) It is in conflict with the conservation area character appraisal, neighbourhood plan and policies set out in the Site Allocations Document
 - 5) The site is outside the settlement boundary
 - 6) The site is an important feature in the rural setting of Market Bosworth
 - 7) The housing needs for Market Bosworth are already met, there is no need for additional housing
 - 8) Impact on the character of two important approaches into Market Bosworth via the two public footpaths
 - 9) Inappropriate as a retirement home
 - 10) Add to the congestion in the area impacting on parking and waste collections
 - 11) Loss of privacy and overshadowing to the neighbouring property
 - 12) Out of keeping with the other properties in the area

6. Consultation

- 6.1. No objection, some subject to conditions has been received from:-
Environmental Health (Pollution)
Environmental Health (Drainage)
Leicestershire County Council (Highways)
Street Scene Services (Waste)
Leicestershire County Council (Archaeologist)
- 6.2. The Conservation Officer has commented that as the site is located adjacent to Market Bosworth Conservation Area consideration needs to be given to its impact on the setting of a designated heritage.
- 6.3. Market Bosworth Parish Council objects to the application for the following reasons:-
- 1) The application is not only outside the settlement area but on designated local green space land that is identified within the Neighbourhood Plan as the Silk Hill area.
 - 2) The application does not demonstrate any benefits that outweigh the harm to this important green space. The proposed dwelling would totally obscure the views and vistas shown on the Proposals Map for the neighbourhood plan.
 - 3) The proposed dwelling does not reflect nor is it in keeping with any of the adjacent character areas.
 - 4) The vista from Back Lane across Silk Hill and beyond would be obscured and the view into the town together with this unique green finger of land which penetrates into the town would no longer exist.
 - 5) Concern about the many subjective and qualitative statements throughout the Design Statement which can present misleading information
 - 6) Concern over car parking spaces. The area proposed for parking is adjacent to Back Lane and the narrow agricultural track serving recently approved

stables. Delivery lorries and school buses also use this part of Back Lane. The proposal will severely impact on the traffic flow and access for the larger vehicles

6.4. The Market Bosworth Society objects to the application on the following grounds:-

- 1) Impact on the important protected view damaging views and vistas of the of the designated local green space
- 2) Encroaching onto vital footpath widely used by walkers which leads to canal and railway corridor
- 3) In conflict with numerous policies in the Market Bosworth Neighbourhood Plan and the Core Strategy
- 4) Impact on parking. When the car park to the nearby doctor's surgery is in use visitors will park on the verges of the track which will be encroached upon by the proposed dwelling.
- 5) Several of the plans are not to scale and therefore not safe to rely upon
- 6) The design would have a poor relationship with adjoining buildings and would conflict with the pattern of development.

7. Policy

7.1. Market Bosworth Neighbourhood Plan 2014-2026

- Policy CE1: Character and Environment
- Policy CE2: Local Green Space
- Policy CE3: Important Views and Vistas

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone
- Policy 19: Green Space and Play Provision

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Boroughs Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

- Landscape Character Assessment 2017
- Market Bosworth Conservation Area Appraisal

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area

- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Other matters

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework February 2019 (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. 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 a planning application conflicts with up-to-date development plan permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009); Site Allocations and Development Management Policies (SADMP) and the Market Bosworth Neighbourhood Plan which was made in September 2015.
- 8.4. 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.
- 8.5. However, 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 and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.6. This is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD, the Core Strategy and the Market Bosworth Neighbourhood Development Plan which are attributed significant weight as they are consistent with the Framework.
- 8.7. Policy BD2 of the Market Bosworth Neighbourhood Plan allocates land to the south of Station Road to meet the needs of the settlement as set out in Policy 11 of the Core Strategy. However the NDP does not prevent development on non-allocated sites.
- 8.8. As the site is situated outside the defined settlement boundary of Market Bosworth which is situated to the east and south 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;
- 8.9. The site does not fall under any of the categories identified in DM4 as sustainable development and there is a clear conflict therefore between the proposed development and the policy. This issue would need to be carefully weighed in the planning balance.

Design and impact upon the character of the area

- 8.10. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.11. Policy DM4 of the SADMP seeks to resist unsustainable development within countryside locations and seeks to ensure proposals reflect the surrounding character of the countryside, and protect its intrinsic value, beauty and open character.
- 8.12. Policy 11 of the Core Strategy places special emphasis on the protection of fingers of green open land which penetrate towards the market place as these are important to the rural setting of the town as supported by the Market Bosworth NP.
- 8.13. The Market Bosworth Neighbourhood Development Plan (MBNDP) was adopted in 2015 and therefore full weight is afforded to relevant policies within the Document.
- 8.14. Policy CE1 of the Market Bosworth NP seeks to ensure that all new development within Market Bosworth is in keeping with this character area in regard to scale, layout and materials to retain local distinctiveness and create a sense of place. There are different character areas across Market Bosworth with the site located on the edge of character area D (Suburban Residential) and E (Historic Core).
- 8.15. Policy CE2 of the NP states that new development that is incompatible with the importance of the local green space as an attractive publicly accessible area will not be allowed unless there are very special circumstances where the benefits of the development clearly outweigh any harm. The proposed dwelling does not provide any benefits that would outweigh harm to the site as an important area of local green space. The proposal would therefore conflict with Policy CE2 of the Market Bosworth NDP which seeks to prevent development unless there are very special circumstances where the benefits of the development clearly outweigh any harm.
- 8.16. Market Bosworth is a ridge top settlement with areas of woodland, parkland and countryside converging towards a historic market place. This sharp transition from rural to urban form is a key characteristic of the conservation area. The siting of the field track and public footpaths at their junction on Back Lane, all fronting the application site, allows for the provision of an excellent vista looking north-west into the countryside which clearly highlights the transition from the village centre to open countryside. As such this vista has been identified as a feature to be protected in the Market Bosworth Conservation Area Appraisal (2014), with the current open and undeveloped character of the site allowing the significance of this part of the conservation area to be fully appreciated. As such this vista has been identified as a feature to be protected in the Market Bosworth Conservation Area Appraisal and the Market Bosworth NDP.

- 8.17. When approaching the village from the undulating slopes of Silk Hill there is also a view into the historical core of the village which includes the spire of St Peters Church, a grade II* listed building. The application site forms part of this view so is therefore considered to be located within the wider setting of this listed building.
- 8.18. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.19. 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. Paragraph 196 states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 8.20. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. All proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.21. The undulating slopes of Silk Hill allow for a view into the historical core of the village including the spire of St Peters Church, via some modern dwellings of a suburban character which are adjacent to the application site and by virtue of its location the proposed dwelling would continue to maintain the view of the church spire when entering the conservation area from Silk Hill.
- 8.22. The proposal represents a contemporary design whilst utilising traditional building materials to the nearby historical core of the Conservation Area (and the wider area) for its construction. The dwelling would be dug into the ground to seek to reduce its visual prominence, having regard to its scale and massing, it is considered that the proposal would not adversely impact upon the views into the village from Silk Hill (views looking eastwards from public rights of way) with the dominance of the church spire being maintained in these views. As such despite being located within the wider setting of the grade II* listed Church of St Peter the proposal is not considered to harm the significance of this listed building for the above reasons. Although the proposed dwelling, would be more contemporary in nature, it is considered to largely reflect the suburban character of the dwellings immediately adjacent along Back Lane and the character of the view into the conservation area from its setting on Silk Hill would therefore be largely maintained.
- 8.23. The proposed dwelling would be situated back within the plot away from the frontage, and is to be dug down into the ground to reduce its scale, alongside consideration being given to ensuring the eaves and ridge height of the property respect those of the adjacent dwelling, which seek to reduced the proposed dwellings visual prominence and minimise any potential impact on the character of the adjacent conservation area and maintain the vista adjacent to the sites frontage, whilst welcomed, it is considered that the extent of the vista into the countryside

from Back Lane would be reduced, although the reduction in the extent is not as great as within the previously refused application (ref: 15/00716/FUL). In terms of the adverse effects on the character and appearance of the conservation area, this would still equate to harm to its significance.

- 8.24. The harm would be less than substantial and no more than minor in magnitude due to the design and siting considerations listed above. Nevertheless, in accordance with Policy DM11 of the SADMP and paragraph 196 of the NPPF the harm caused by the proposal should be weighed against the public benefits. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
 - Reducing or removing risks to a heritage asset
 - Securing the optimum viable use of a heritage asset in support of its long term conservation
- 8.25. The proposal has failed to demonstrate any heritage benefits however there are other (non-heritage) public benefits associated with the proposal that should be taken into account; these would include the provision of a new self-build dwelling, some short-term employment from the construction of the dwelling, and the continued use of local facilities and services by the future occupants. There may well be further public benefits associated with the proposal that should be taken into account, but taken as a whole the level of these benefits would have to be of the level required to outweigh the harm caused by the proposal taking into account the great weight that should be given to the assets conservation (para.193 of the NPPF) and the requirements of Policy DM11 of the SADMP.
- 8.26. Whilst attempts have been made to respond to the constraints of the site they do not outweigh the harm caused to the setting of the Conservation Area, and a dwelling in this location. The harm would be less than substantial however it is not considered any public benefits associated with the scheme would outweigh the harm. The proposal is therefore contrary to paragraph 196 of the NPPF 2019 and policy DM11 of the SADMP.
- 8.27. Policy CE1b states new development should pay particular attention to existing rooflines in Character Areas D and E and not harm important views. The proposed roofline would be in contrast to the existing properties along Back Lane through both design and height. It would also impact upon important views into the countryside. The proposal is therefore in conflict with Policy CE1b of the neighbourhood plan.
- 8.28. The proposed dwelling does not provide any benefits that would outweigh harm to the site as an important area of local green space. The proposal would therefore conflict with Policy CE2 of the Market Bosworth NDP which seeks to prevent development unless there are very special circumstances where the benefits of the development clearly outweigh any harm.
- 8.29. The proposed development would therefore have a detrimental impact upon the important view and vista as defined in Policy CE3 of the Market Bosworth Neighbourhood Plan. The proposed development would be contrary to Policy CE2 where new development is incompatible with the defined local green space, and no benefits have been demonstrated which would outweigh the harm to this important area of local green space. The introduction of a dwelling, in the proposed location

also fails to preserve the special character of the setting of the adjacent conservation area, where the transition from village centre to open countryside, is an identified feature to be protected, contrary to Policies DM11 and 12 of the Site Allocations and Development Management Policies DPD in this regard.

Impact upon neighbouring residential amenity

- 8.30. Policy DM10 of the adopted SADMP requires development proposals should not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings and the amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.31. The proposed dwelling would be situated immediately adjacent to No. 1 Back Lane. During the course of the application concerns have been received that the proposal would have a detrimental impact on the amenity to the neighbouring property.
- 8.32. The dwelling projects further to the rear than the previous application (Ref: 15/00716/FUL). However the neighbouring dwelling is set away from the boundary, and due to the changes in levels within the site, and having regard to the proposed dwelling being set into the land, the ridge height of 1 Back Lane would be greater than the application dwelling, so it would not result in a significant degree of overshadowing to make the proposal significantly harmful in amenity terms.
- 8.33. Concerns have been raised regarding the rear balcony. However it would be an improved relationship on the previous scheme (15/00716/FUL) which was not considered to result in a significant loss of privacy to warrant a refusal on amenity. The proposed scheme positions the balcony further away from the boundary and beyond the rear elevation on 1 Back Lane, reducing impacts further than previously considered under 15/00716/FUL. However, should planning permission be granted it is considered necessary to impose a condition, to ensure that the balcony would be opaquely screened along the east facing side, reducing overlooking at oblique angles, ensuring that the impact would be no greater than a first floor habitable room.
- 8.34. The proposal also seeks a first floor side facing study/bedroom overlooking the adjacent field. Whilst not ideal the proposal would not overlook any residential properties and therefore no loss of amenity would be experienced through this development. The proposal does not therefore conflict with policy DM10 of the SADMP.

Impact upon highway safety and Public Rights of Way

- 8.35. Policies DM17 and DM18 of the SADMP state that proposals will not be acceptable where they have a detrimental impact upon highway safety or the satisfactory functioning of the local highway network including public rights of way.
- 8.36. Objections have been received during the course of the application regarding the position of the access and the parking within the local highway authority.
- 8.37. Leicestershire County Council (Highways) have considered the application and raise no objection the proposed development subject to conditions, to control and secure access and parking prior to occupation of the dwelling. The proposed development would be accessed from Back Lane and would provide 2 off street parking spaces to the front of the dwelling to meet parking standards. The proposal would generate a low number of vehicular movements that are unlikely to significantly impact upon the immediate area or wider network when considered cumulatively with other developments.
- 8.38. The application also proposes to divert the existing public footpath (S69) running through the site onto adjacent land. No response has been received as yet from

Leicestershire County Council (Public Rights of Way) and this will be reported as a late item. However the applicant would need to formally apply for and gain consent for a footpath diversion order under Section 257 of the Town and Country Planning Act 1990 should planning permission be granted.

- 8.39. Subject to the development being carried out in accordance with the recommended conditions, the proposal would be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Drainage

- 8.40. Policy DM7 of the adopted SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.41. The application site is within Flood Zone 1, (less than 1 in 1,000 annual probability of flooding). Environmental Health (Drainage) has assessed the application and has no objection to the principle of the dwelling in this location, and recommends a note to applicant should permission be granted suggesting surface water be managed by sustainable methods. If ground strata are insufficiently permeable to avoid discharging some surface water off site flow attenuation methods should be employed. They also recommend parking and turning areas to be constructed in a permeable paving system, with or without attenuation storage depending on ground strata permeability.
- 8.42. Therefore subject to the development being carried out in accordance with these details, the proposal would be in accordance with Policy DM7 of the adopted SADMP.

Impact upon Archaeology

- 8.43. Policy DM11 and DM12 of the adopted SADMP seeks to ensure that development proposals shall protect, conserve and enhance the historic environment.
- 8.44. The application site is situated within an area of archaeological interest as identified within The Leicestershire and Rutland Historic Environment Record. The proposal site is adjacent to the Conservation area and partly included within the historic settlement core of Husbands Bosworth (HER Refs: DLE675 and MLE2935). The development proposals include works such as foundations which are likely to impact upon those remains.
- 8.45. Leicestershire County Council (Archaeology) does not object to the proposal. It seeks further information with regard to the archaeological evaluation of the site. This information can be secured by condition and is considered to be a reasonable approach to ensure that any archaeological remains present are treated appropriately. Subject to the inclusion of this condition the development would not have a detrimental impact upon the understanding of the significance of any heritage asset, and would therefore be in accordance with Policies DM11 and DM12 of the SADMP.

Obligations

- 8.46. 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. However, the PPG is clear that obligations for affordable housing should not be sought from applications of 10 or less residential units or where a site area does not exceed 0.5ha, which this site does not.
- 8.47. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community

Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm 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. 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.

- 8.48. The nearest public amenity space to the application site is The Square, Market Place (reference MKBOS22), The garden of remembrance (MKBOS24) both of which have quality scores of 71 and 72% in the Open Space and Recreation Study (2016) which is close to the target quality score of 80%.
- 8.49. Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant, however, in this case, the proposal is for only one dwelling which would not have any significant impact on existing play and open space facilities. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.
- 8.50. 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.
- 8.51. The NPPF is a material consideration in determining applications. Paragraph 11 of the NPPF identifies that plans and decisions should apply a presumption in favour of sustainable development, and for decision taking this means approving development proposals that accord with an up to date development plan. As previously identified 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 NPPF applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.52. The proposal would be in conflict with Policy DM4 of the adopted SADMP as it does not support new residential development outside the settlement boundary. This policy is in accordance with the NPPF and has significant weight.
- 8.53. Paragraph 8 of the NPPF states that sustainable development has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. The assessment of the three dimensions relative to this proposal are as follows:
- 8.54. Economic – The scheme would provide limited benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself and from the future occupation of the development supporting businesses in the wider rural area.
- 8.55. Social – The scheme would provide a small contribution to the overall housing supply within the Borough through the provision of one new dwelling. The proposal would however provide a dwelling in an area where there is no additional housing allocation outside the defined settlement boundary of Market Bosworth other than the proposed allocated site to the south of Station Road.
- 8.56. Environmental - Although the proposal is situated outside the settlement boundary, it is immediately adjacent to it, and not in an isolated position, with development

positioned to its east and south of the site, and would be in close proximity to the local services of Market Bosworth. However the identified harm caused by the development upon an important protected view and vista, and an area of designated local green space in addition to the adverse effects on the character and appearance of the conservation area, the proposal would result in significant and demonstrably harm, which would not be outweighed by the benefits. when assessed against the NPPF.

Other matters

- 8.57. The Street Scene Services (Waste) Officer has stated domestic recycling, garage waste and refuse is from the adopted highway boundary and no development shall take place until a scheme for adequate provision of waste and recycling has been submitted to and approved by the Local Planning Authority should permission be granted.

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. 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.

- 10.2. The application site is situated outside the settlement boundary of Market Bosworth and therefore in the countryside, where strategic adopted development plan policy DM4 of the adopted SADMP seeks to protect the countryside from unsustainable development, including new residential development.

- 10.3. However, the housing policies in the adopted Core Strategy and the adopted SADMP are out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the NPPF applies where permission should be granted unless adverse impacts would significantly and

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

- 10.4. The dwelling is situated within an identified within an important view and vista and a designated local green space as identified within the MBNP. Due to the siting and location of the proposed dwelling, it is considered that the proposed dwelling would have an impact upon this identified protected view and vista, an area of designated local green space and the importance of the historic setting of the Market Bosworth conservation area as a designated heritage asset.
- 10.5. The proposal would therefore fail to comply with local and national planning policies including Policies CE1, CE2 and CE3 of the Market Bosworth Neighbourhood Development Plan, Policies DM1, DM4, DM10, DM11 and DM12 of the SADMP and Core Strategy Policy 11, and on balance the limited benefits of the development would not be considered to outweigh the demonstrable harm of this development.

11. Recommendation

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

11.2. Reasons

1. The proposed dwelling due to its siting and location would detrimentally impact upon an important protected view and vista, an area of designated local green space and the importance of the historic setting of the Market Bosworth conservation area as a designated heritage asset. The proposed development would conflict with Policies CE1, CE2 and CE3 of the Market Bosworth Neighbourhood Development Plan, Policies DM1, DM4, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD and Policy 11 of the Hinckley & Bosworth Core Strategy 2009. Furthermore the proposal would conflict with the aims of the National Planning Policy Framework and in particular paragraphs 193 and 196.

11.3. Notes to Applicant

1. This application has been determined with regard to the following documents and plans:-
 - Planning Application Form
 - Design and Access Statement
 - Site Location Plan L1006 B
 - Wider site plan L1005 B
 - Block plan L1001 B
 - Proposed Ground Floor Plan no. L1100 B
 - Proposed First Floor Plan no. L1101 B
 - Proposed North Elevation 1202 B
 - Proposed West Elevation 1200 B
 - Proposed East Elevation 1203 B
 - Proposed South Elevation 1201 B
 - View no 1 comparison drawing 1210 B
 - View no 2 comparison drawing 1211 B
 - View no 3 comparison drawing 1217 B
 - View no 1 looking east 1210 B
 - View no 2 looking east 1211 B
 - View no 3 looking north 1212 B

Received on the 16th and 30th September 2019.

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Planning Committee 4 February 2020
Report of the Planning Manager

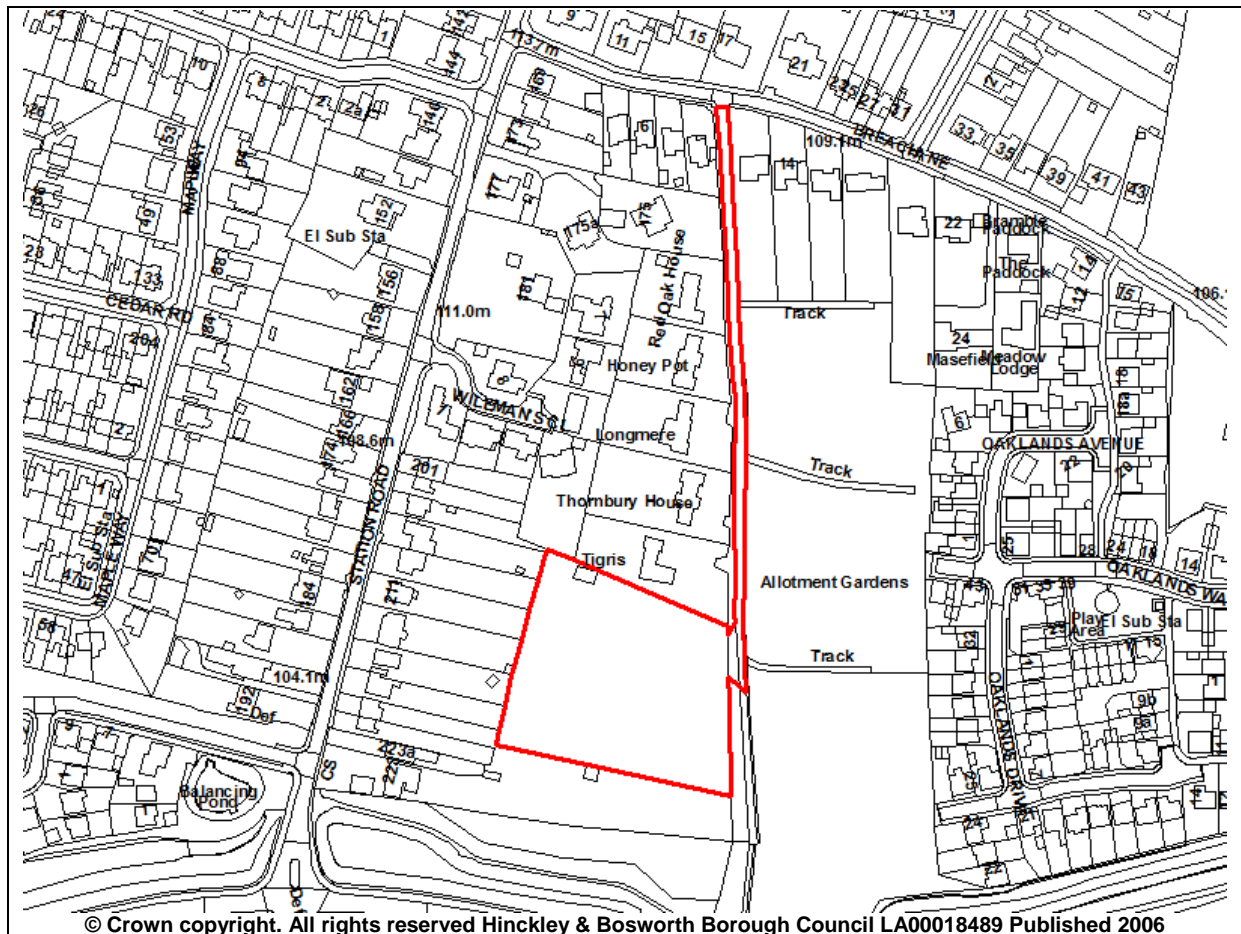
Planning Ref: 19/00607/FUL
Applicant: James Hudson
Ward: Earl Shilton



Hinckley & Bosworth
 Borough Council

Site: Land West Of Breach Lane Earl Shilton

Proposal: Erection of 3 detached dwellings



This application was taken to the previous Planning Committee 15 October 2019. The previous report and accompanying late items are attached to this report as Appendix A and B.

1. Recommendations

1.1. Grant planning permission subject to:

- The completion within 3 months of this resolution a S106 agreement to secure the following obligations:
- The completion of a legal agreement to secure play and open space
- Planning conditions outlined at the end of this report.

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

- 1.3. That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.
2. This application seeks full planning permission for the erection of three detached 5-bed dwellings. Outline permission for up to three dwellings, was granted in 2018 for residential development with only access agreed.
3. The proposed dwellings are accessed via a private road from Breach Lane, Earl Shilton, which is a single width track. Each property is served by a shared driveway that sits on the inside of the existing hedging along the eastern boundary. Each property has its own turning and parking space within the site.
4. The application is submitted with a Design and Access Statement that specifically refers to the number of bedrooms, the materials proposed, drainage and access.
5. The proposed plans detail ground, first floor and roof plans as well as individual plot layout and all elevations and materials proposed for that specific property.
6. The overall layout is similar to that indicatively approved at outline. The proposed layout takes into account the pipework underground, however the footprint for each dwelling is slightly larger and shaped differently than previously indicated, the access layout within the site is also slightly different. However, plans previously approved at outline were indicative.
7. On the 15 October 2019 committee resolved the application be granted subject to:-
 - “(i) Permission be granted subject to*
 - a. Planning conditions outlined in the officer’s report and late items*
 - b. The completion of a legal agreement to secure play and open space and off site affordable housing contributions*
 - “(ii) The Planning Manager be granted powers to determine the final detail of planning conditions and legal agreement.”*
8. Following this decision, further advice has been sought in respect of the affordable housing obligation which is sought.
9. Paragraph: 023 Reference ID: 23b-023-20190901 of the Planning Practice Guidance states:-

“Planning obligations for affordable housing should only be sought for residential developments that are major developments...”

...For residential development, major development is defined in the National Planning Policy Framework as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000 square metres or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.”
10. In this instance the site application site exceeds 0.5 hectares and therefore in accordance with the guidance as set out in the Planning Practice Guidance (PPG) falls under the definition of Major development and therefore obligations towards affordable housing can be sought, this is also echoed within the definitions contained within the National Planning Policy Framework. The PPG however, is guidance only and the legal definition of a major development for the purposes of planning is contained within the Town and Country Planning (Development Management Procedure) Order, which defines major development, for the purposes of residential development as:-

“major development” means development involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits;*
 - (b) waste development;*
 - (c) the provision of dwellinghouses where—*
 - (i) the number of dwellinghouses to be provided is 10 or more; or*
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more*
- and it is not known whether the development falls within sub-paragraph (c)(i);”*

11. In this instance, although the site exceeds the threshold of 0.5 hectares the number of dwellings is known, which is less than 10, and therefore fall outside the definition of a ‘major development’ when considering the legislation, which is law. Therefore having regard to the definition contained within the legislation the development is not considered a major development, and therefore a request for a commuted sum towards affordable housing can not be sought in this instance.
12. The officer’s recommendation therefore in light of the advice provided, is that the application is approved subject to the planning conditions outlined in Appendix A and B, with the legal obligation sought for Play and Open only.
13. **Recommendation**
- 13.1. **Grant planning permission** subject to:
 - The completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - The completion of a legal agreement to secure play and open space
 - Planning conditions outlined at the end of this report
- 13.2. That the Planning Manager be given powers to determine the final detail of planning conditions.
- 13.3. That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods

APPENDIX A

Planning Committee 15 October 2019
Report of the Planning Manager

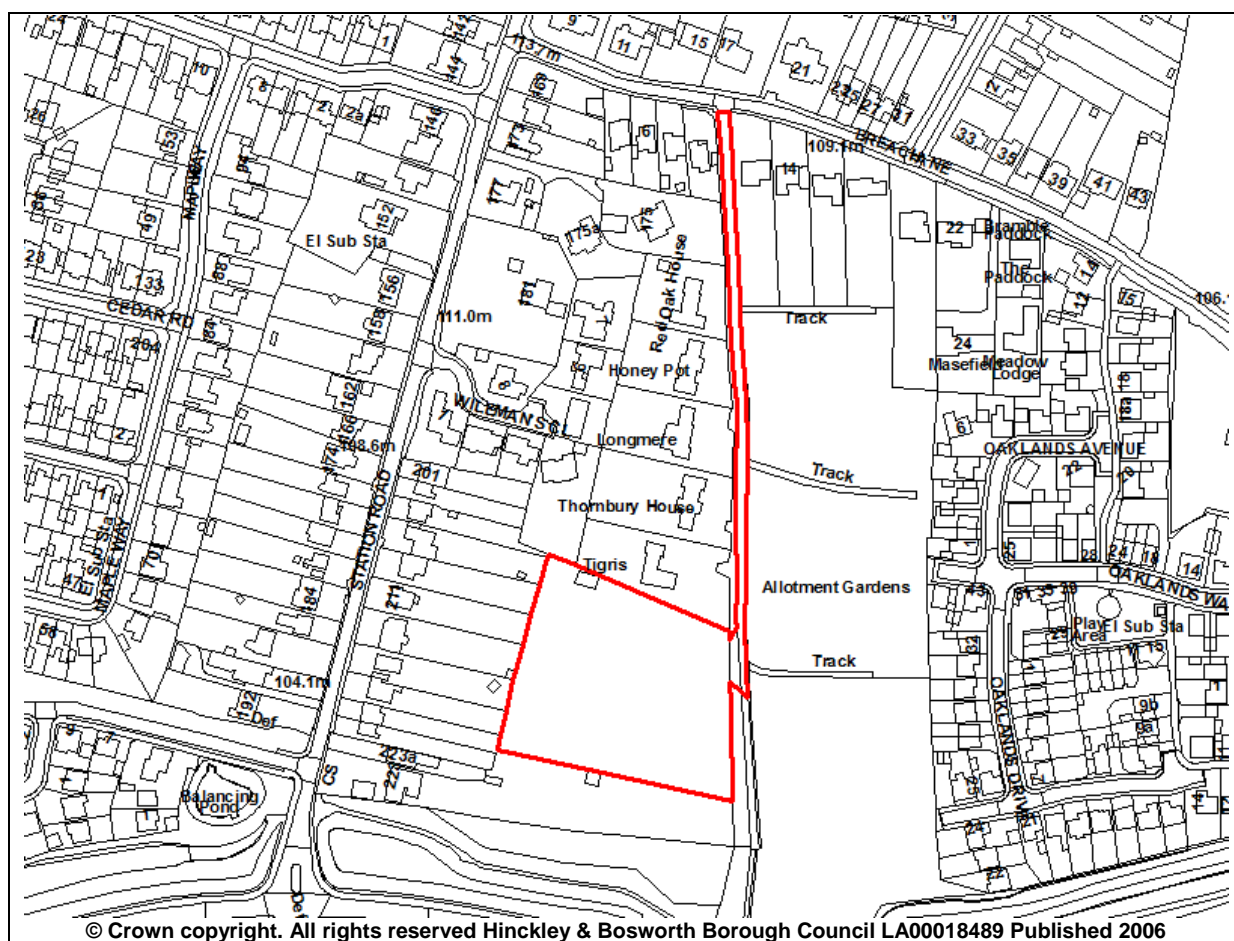
Planning Ref: 19/00607/FUL
Applicant: Primrose Consulting Ltd
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land West Of Breach Lane Earl Shilton

Proposal: Erection of 3 detached dwellings



1. Recommendations

1.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report.
- The completion of a legal agreement to secure play and open space and off site affordable housing contributions.

1.2. That the Planning Manager be given powers to determine the final detail of planning conditions and legal agreement

2. Planning Application Description

- 2.1. This application seeks full planning permission for the erection of three detached 5-bed dwellings. Outline permission for up to three dwellings, was granted in 2018 for residential development with only access agreed.
- 2.2. The proposed dwellings are accessed via a private road from Breach Lane, Earl Shilton, which is a single width track. Each property is served by a shared driveway that sits on the inside of the existing hedging along the eastern boundary. Each property has its own turning and parking space within the site.
- 2.3. The application is submitted with a Design and Access Statement that specifically refers to the number of bedrooms, the materials proposed, drainage and access.
- 2.4. The proposed plans detail ground, first floor and roof plans as well as individual plot layout and all elevations and materials proposed for that specific property.
- 2.5. The overall layout is similar to that indicatively approved at outline. The proposed layout takes into account the pipework underground, however the footprint for each dwelling is slightly larger and shaped differently than previously indicated, the access layout within the site is also slightly different. However, plans previously approved at outline were indicative.

3. Description of the Site and Surrounding Area

- 3.1. The application site is situated outside the settlement boundary of Earl Shilton, to the south of existing dwellings along Breach Lane and to the rear of dwellings situated along Station Road, Earl Shilton.
- 3.2. The site is accessed via an un-adopted carriageway off the public highway of Breach Lane to the north. The area within which the application site is situated is characterised by ribbon development with frontages of housing facing east towards the access and the allotments situated on the opposite side of access road. The dwellings occupy large plots set back from the access and comprise of detached dwellings with a range of designs and finishes.
- 3.3. The site is accessible from an un-adopted access, off Breach Lane. Part of the access located to the north towards Breach Lane would be located within the settlement boundary, however the application site and access into the site is located outside the defined settlement boundary.

4. Relevant Planning History

17/00532/OUT	Erection of five dwellings (Outline - access only)	Withdrawn	10.08.2017
18/00530/OUT	Erection of three dwellings (Outline - access only)	Permission	15.11.2018

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 displayed in the local press.
- 5.2. During the course of the application six letters of representation have been received from different addresses. Five were objections and one neither supported nor objected. The comments raised are as follows:
- 5.3. The comments raised the following issues:

- 1) Additional construction and residential traffic;
- 2) Risk to pedestrians and no road safety audit submitted;
- 3) Damage the construction process will cause to the private road;
- 4) There are no passing spaces or scope to include them;
- 5) A condition regarding a construction management plan is required;
- 6) Damage to other peoples property in Breach Lane;
- 7) Security of the site is questioned;
- 8) The council should make the contractors responsible for the site;
- 9) Clarification on the upkeep of the land during development process;
- 10) Highway safety is a concern as the telegraph pole obstructs visibility;
- 11) Access road is too narrow for more housing;
- 12) Volume of increase in traffic is not suitable for the narrow lane;
- 13) Width of the road is less than 5m in places;
- 14) Access for 5 properties is problematic;
- 15) Allotment uses clashes with the residential traffic;
- 16) Lack of lighting and an increase could be detrimental;
- 17) Private road is maintained by residents, who is going to be responsible for the upkeep during construction;
- 18) Additional houses would ruin the existing character of the lane;
- 19) The existing hedging is not adequately maintained;
- 20) The grass verge is maintained by residents, will the developers respect this
- 21) It is required that construction is limited to 5 days a week, that all damage; should be returned to previous state and new residents must join the Breach Lane Management fund;
- 22) The development is located on meadowland/greenbelt and balconies on the back are unacceptable;
- 23) Concerns about drainage and ongoing drainage across the site for new residents;
- 24) Residents have very little faith in the planning department given previous applications;
- 25) 100% reassurance is required that the existing tree/hedgerow and fencing that sit on the boundaries will be retained as it form the only privacy barrier;
- 26) Existing storm sewer musty be protected during and after construction and not impact any of the surrounding residents;
- 27) Further landscaping is required;

6. Consultation

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

HBBC ES Pollution
 LCC Archaeology
 LCC Ecology
 HBBC Affordable Housing
 HBBC Waste
 HBBC Drainage
 LCC Highways Cadent
 National Grid

7. Policy

- 7.1. Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 19: Green Space and Play Provision

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

- Policy DM1: Presumption in Favour of Sustainable Development

- Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM19: Existing Employment Sites
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) 2019
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- Housing and Economic Development Needs Assessment (HEDNA)
 - Earl Shilton and Barwell Area Action Plan (AAP)
 - Open Space and Recreation Study (2016)
- 8. Appraisal**
- 8.1. Key Issues
- Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Drainage
 - Pollution
 - Impact upon ecology
 - Other matters
 - Other material considerations
- Assessment against strategic planning policies
- 8.2. Paragraph 2 of the 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 in this instance consists of the Core Strategy (2009), Earl Shilton and Barwell Area Action Plan (2014) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. 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.
- 8.5. However, 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 and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 8.6. This is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.
- 8.7. As the site is situated outside the defined settlement boundary of Earl Shilton which is situated along the north boundary of the application site and travels south along its west facing boundary. 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 there is a clear conflict therefore 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. The outline application is extant and therefore carries weight in the planning balance.

Design and impact upon the character of the area

- 8.9. 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.
- 8.10. 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.
- 8.11. Objections to the application have been received on the grounds that the proposal would be detrimental to the character of the area.
- 8.12. The application site is located to the south of existing residential dwellings, along an access off Breach Lane Earl Shilton. The land immediately surrounding the

application site comprises a mix of large detached dwellings along the west side of the Breach Lane access, the rear gardens of the dwellings to the west of application site along Station Road, and allotment land to the east. The application site comprises an undeveloped paddock with the exception of a small stable block building. The existing boundary treatment comprises mature trees and hedgerow which shields it from view within the street scene. The track serving the land and existing properties narrows as it extends towards the application site entrance.

- 8.13. The layout demonstrates three dwellings in a linear formation with a staggered building line. It proposes three dwellings which have a similar footprint to those dwellings situated to the north of the application site, with rear gardens extending west to meet the rear gardens of those along Station Road. A single point of access to the three dwellings is proposed, the existing access would be replaced with native hedge species and the new access located north of the existing.
- 8.14. The proposed development layout seeks to extend the existing pattern of linear development along Breach Lane. The building of dwellings, along a road, especially which leads out of a town or village, is deemed as ribbon development, and Policy DM4 of the SADMP seeks to resist such development.
- 8.15. Breach Lane, is not a main road, nor vehicle thoroughfare out of the town, however it does provide pedestrian access south to Clickers Way bypass and the countryside beyond. To the south of Breach Lane, the Clickers Way bypass runs east to west and encloses the south of Earl Shilton, and severs the application site from the wider countryside. To the west of the application site, dwellings along Station Road extend up to the boundary of Clickers Way and beyond the allotments to the east; the Masefield Drive development. Although the development would exacerbate ribbon development along Breach Lane and is situated outside the settlement and therefore within the countryside, the 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 Clickers Way bypass ensures that the perceived separation between the settlement and the wider countryside is observed and maintained.
- 8.16. At the outline stage it was suggested any proposed hard surfacing was limited to only what is necessary, in addition it would need to incorporate a landscaping scheme which strengthens the existing hedgerow to the east. Dwellings should also be limited to two storeys in height to reflect the wider character of the area and the properties in Breach Lane.
- 8.17. Whilst the application submitted is a Full and not a Reserved Matters (as normally expected following outline consent being granted) the proposal takes on board these earlier requirements. The properties proposed are two storey only and the proposed hardstanding is limited to the access for the three units.
- 8.18. In summary. the proposed development of three dwellings would not result in a significant adverse impact upon the character and landscape character of this area of countryside, having regard to the wider pattern of development, although the proposal would exacerbate ribbon development, it is not considered to be harmful in this instance for the reasons set out above, the proposal is therefore in accordance with Policy DM4 and DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.19. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties.

- 8.20. As a full application this proposal is required to demonstrate that the impact of the proposal would not be adverse in terms of impact on existing and proposed residential amenity.
- 8.21. The nearest neighbouring dwelling to Plot 1 is Tigris, Breach Lane, which is situated to the north of the application site. Tigris is a two storey detached dwelling with a south facing side gable looking towards the application site. The layout shows there to be a good distance between these two units with existing planting mitigating neighbour to neighbour relations. The plan shows that plot one will have two first floor windows, to two en-suite bathrooms facing north. These can be appropriately conditioned, as can the boundary treatment protecting ground floor amenity.
- 8.22. In terms of the relationship between the occupiers of the new units the staggered nature improves potentially adverse overlooking. All of the three properties have windows at first floor level on the side elevations however all are obscure glazed bathrooms and en-suites. There are first floor balconies proposed to each of the three dwellings, which could result in overlooking and therefore loss of privacy. However, given the width and length of each of the proposed rear gardens, the staggered layout and the position and size of the balconies means that the view experienced would not be over and above that which could be achieved from a standard window in this position. Plot 1 is adjacent to an existing dwelling, and proposed a balcony to the first floor bedroom, however, this is set off the dividing boundary by 18m which is considered to maintain acceptable levels of residential amenity to this existing neighbouring property.
- 8.23. The proposed siting of the three dwellings would not result in any significant overbearing impacts, overshadowing or loss of privacy to neighbour amenity.
- 8.24. To the west of the application site the rear gardens of dwellings No.207 to 219 Station Road, Earl Shilton, back onto the application site. The rear garden depths of these properties are in excess of 40 metres and therefore given this significant distance this proposal would not result in any loss of amenity to these properties.
- 8.25. In light of the above the proposal would be considered to be in accordance with Policy DM10 of the SADMP in terms of residential amenity.

Impact upon highway safety

- 8.26. Policy DM17 of the SADMP states that all new development should in be accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.27. Objections have been received on the grounds of adverse impacts on highway and pedestrian safety as a result of the constrained nature of the un-adopted highway and the increased traffic movements along this stretch of Breach Lane.
- 8.28. This section of Breach Lane, Earl Shilton is an un-adopted single width carriage way, and the proposed development site would be situated approximately 200 metres to the south of the publically maintained highway.
- 8.29. Previously Leicestershire County Council (Highways) advised that their concerns with the development relate to how the development may interrelate to traffic on the adopted highway and due to the limited number of dwellings proposed, the Highway Authority did not deem it necessary that passing places were required along the private road.
- 8.30. It was considered that the residual cumulative impacts of development could be mitigated and would not be considered severe in accordance with Paragraph 32 of the NPPF and the proposal in accordance with Policies DM17 and DM18 of the SADMP. It does however, request that the access point from Breach Lane onto the

application site is increased to allow two cars to pass each other. A condition has been included as part of the comments received from LCC.

- 8.31. The proposed scheme is not offering anything new in terms of access other than where requested. The access point from Breach Lane onto the application site is now increased in size to 4.8m for a depth of 12m. The Highway Authority has no further comments and do not object to the scheme proposed subject to this condition.

Drainage

- 8.32. Policy DM7 of the SADMP seeks to ensure that development does not exacerbate or create flooding.
- 8.33. Concerns have been received on the grounds that the development would result in flooding from an increase in surface water run-off (from additional hard surfacing and natural springs) on this elevated land.
- 8.34. 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. Each dwelling has its own cess pit for foul water drainage and soakaways are proposed for surface water drainage. However, it is considered reasonable to require further drainage details to be provided through a condition to ensure surface water is being discharged incorporating sustainable urban drainage. It is considered that the development would be in accordance with Policy DM7 of the SADMP.

Pollution

- 8.35. Policy DM7 of the adopted SADMP seeks to prevent adverse impacts from all forms of pollution. The application has been submitted with a Geo environmental assessment.
- 8.36. HBBC Environmental Health (Pollution) have not objected to the proposal subject to the development being carried out in accordance with the findings of the submitted report, further remediation work to be carried out as required and restrictions on operating hours for development. Accordingly the proposed development would comply with Policy DM7 of the SADMP.

Impact upon Ecology

- 8.37. Policy DM6 of the SADMP states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On-site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.
- 8.38. Leicestershire County Council (Ecology) have been consulted on the application, and considers that due to the grassland having been overgrazed it is therefore unlikely to be species rich. The existing stable building on site, has an open roof space and constructed in the 90s and therefore fall outside the scope of requiring a bat survey. Leicestershire County Council (Ecology) therefore has no objection to the proposed development. Accordingly the proposed development would comply with Policy DM6 of the SADMP.

Other matters

- 8.39. 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. To support the provision of mixed, sustainable communities. 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.

- 8.40. The proposed development seeks to erect three large detached dwellings on a site of 0.7ha. As a result it is necessary to require from the Applicant a Unilateral Undertaking to ensure that the Local Planning Authority secure contributions towards play and open space and affordable housing contributions, in accordance with Policy 2, 15 and 19 of the Core Strategy and Policy DM3 of the SADMP.
- 8.41. To ensure that the development is in accordance with Policy 19 of the Core Strategy if the full on-site green space and play provision is not provided contributions towards the off-site provision and maintenance of open space will be requested through a legal agreement.
- 8.42. The application site is located within 400 metres of Jubilee Drive, which provides amenity space and children play space. The quality score Jubilee Drive is 68% within the Open Space and Recreation Study 2016, which is below the 80% quality target score. It is considered that the future occupiers would use the facilities of this site. Core Strategy 19 and the open space recreation study seeks that provision for children should be within a catchment area of 400 metres and Provision for young people within a catchment of 500 metres from the application site. Within 500 metres of the application site, is Maple Way, which provides space for young people, which has a quality score of 74%, which is below target score of 80%. As such the proposed development would attract the following contributions:-

	Provision per dwelling (2.4 people per dwelling)	Number of dwellings	Sqm to be provided	Off site provision per square metre	Provision Contribution	Maintenance contribution per square metre	Maintenance contribution
Equipped Children's Play Space	3.6	3	10.8	£181.93	£1,964.84	£87.80	£948.24
Casual/ Informal Play Spaces	16.8	3	50.4	£4.44	£223.78	£5.40	£272.16
Outdoor Sports Provision	38.4	3	115.2	£9.05	£1,042.56	£4.30	£495.36
Accessibility Natural Green	40		0	£4.09	£0.00	£7.10	£0.00
			Provision total		£3,231.18	Maintenance total	£1,715.76

- 8.43. The contribution of £4,946.94 is considered reasonable in mitigating the impact of the proposed development upon the existing facilities and/or maintaining the green space and play provision provided on site. Therefore the above contributions would be deemed necessary and reasonable, in addition to and any other CIL compliant obligations which are considered as necessary.
- 8.44. Paragraph: 023 Reference ID: 23b-023-20190901 of the Planning Practice Guidance, notes that affordable housing contributions should not be sought other than those that are major development which is defined as 10 units or more or where the site area exceeds 0.5ha. The application site is 0.7ha, therefore a commuted sum towards the delivery of affordable housing will be required. Comments are awaited from the Council's Affordable Housing Officer and the commuted sum figure will be included in the Late Items.

Whether on balance the development would be sustainable

- 8.45. The NPPF is a material consideration in determining applications. Paragraph 11 of the NPPF identifies that plans and decisions should apply a presumption in favour of sustainable development, and for decision taking this means approving development proposals that accord with an up to date development plan. As previously identified following the publication of the Inspector's Report on 'Land East of the The Common Barwell' (Ref: APP/K2420/W/17/3188948) on the 20 July 2018, it was determined that the policies relating to the supply of housing are now considered out of date and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG therefore the presumption in favour of sustainable development within paragraph 11(d) of the NPPF is triggered.
- 8.46. Paragraph 8 of the NPPF states that sustainable development has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. The assessment of the three dimensions relative to this proposal are as follows:
- 8.47. Economic – The scheme would provide limited benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself and from the future occupation of the development supporting businesses in the wider rural area.
- 8.48. Social – The scheme would provide a small contribution to the overall housing supply within the Borough through the provision of three new dwellings. The proposal would however provide dwellings in an area where there is no additional housing allocation outside the defined settlement boundary of Earl Shilton other than the proposed Sustainable Urban Extension to the south of the settlement boundary.
- 8.49. Environmental - Although the proposal is situated outside the settlement boundary, it is immediately adjacent to it, and not in an isolated position, with development positioned to the east and west of the site. The development would be in close proximity to the local services of Earl Shilton, given the positioning of the site in relation to the wider area the proposal would not result in a significant adverse impact upon the countryside.
- 8.50. The proposed development would not result in any adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the NPPF.

Other matters

- 8.51. Comments have been received in respect of the ownership of the private drive and its funding. Land ownership is a civil matter, however as part of this application, the owner has provided the land registry details as there is no titled owner of the road and therefore served notice within the local paper to ensure all interested parties are notified of the proposal. However should permission be granted it would be a civil matter to ascertain ownership to implement any permission.

9. Equality Implications

- 9.1. **Where No Known Implications** 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 proposal seeks development of the existing land for the erection of three dwellings. The site is currently a grassed paddock area, and situated outside but immediately adjacent to the defined settlement boundary of Earl Shilton, and therefore would not accord with Policy DM4 of the SADMP.

10.2. However although the application site is considered to be countryside, given the surrounding development and the character of the area, the land is not interpreted as countryside, nor an area of physical and perceived separation. Therefore having regard to the NPPF and the fact that policies relating to the supply of housing are now out of date, following the publication of the Inspector's Report on Land East of The Common Barwell (Ref: APP/K2420/W/17/3188948) on the 20 July 2018, and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG paragraph 11 (d) of the NPPF is triggered, and therefore the presumption in favour of sustainable development is triggered, and in this instance the provision of three houses on this site would not result in a significantly and demonstrably adverse impact which would outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

10.3. In addition, the proposal would not have any significant adverse impacts upon residential amenity, or on vehicular or pedestrian safety and Ecology, and subject to conditions would not result in any adverse impact upon drainage and Pollution. It is considered that the proposed development is in accordance with Policies DM1, DM4, DM7, DM10, DM17 and DM18 of the SADMP and paragraph 11 of the NPPF.

10.4. Having regard to Policy DM1 of the SADMP, presumption in favour of sustainable development, and taking into account the relevant Development Plan policies and material planning considerations, it is considered, on balance, that the proposed development constitutes sustainable development. This full application 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.
- The completion of a Unilateral Undertaking to secure play and open space contributions and affordable housing contributions

- 11.2. That the Planning Manager be given powers to determine the final detail of planning conditions and legal agreement.

11.3. **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:

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. The first floor windows in the north and south elevation of each proposed dwelling shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable below 1.7m from internal floor level. Once so provided the window(s) shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 108 and 110 of the National Planning Policy Framework (2019).

5. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

6. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a

similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

7. No development shall commence until a Construction Transport Management Plan (TMP) is submitted to and approved in writing by the local planning authority. The plan shall set out details and schedule of works and measures to secure:-

- 1) cleaning of site entrance, facilities for wheel washing, vehicle parking and turning facilities;
- 2) On site construction traffic parking;
- 3) Details of the how the site will be accessed and measures to ensure the existing public and private highway condition is maintained and any required repair works upon completion of construction;
- 4) details of the routes to be used to access the site, including measures to ensure the existing highway condition is maintained and any required repair works upon completion of construction;

Reason: To ensure the protection of neighbouring residential amenity during Construction and to ensure construction traffic does not cause a highway danger, to accord with Policies DM7 and DM17 of the Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document 2016.

8. The remediation measures recommended in the Georisk Management Report No.19097/1 April 2019 document shall be implemented in accordance with that report and any remediation works shall be carried out prior to the first dwelling being occupied. Verification of all remediation measures carried out in accordance with the Georisk Management Report No 19097/1 April 2019 shall be provided before the first dwelling is occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

10. Site preparation and construction work of the development, hereby permitted, shall not take place other than between the hours of 07:30 hrs and 18:00 hrs on weekdays and 08:00 hrs and 13:00 hrs on Saturdays nor at any time on Sundays and Public Holidays unless other agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11. No development shall take place until 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 to 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.

Reason: In the interests of the amenity of future occupiers of the proposed development, to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

12. The development hereby permitted shall not be occupied until such time as the access, off street car and parking provision (with turning facilities) has been provided, hard surfaced in accordance with drawing number Design 5a 03.09.19. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policy DM17 and 18 of the Site Allocations and Development Management Policies DPD (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

13. No demolition/development shall take place until a program of archaeological work, commencing with an initial phase of trial trenching has been completed in accordance with a written scheme of investigation (WSI) which has been submitted to and approved by the Local Planning Authority in writing. For land that is included in the WSI, no demolition/development shall take place other than in accordance with the agreed WSI which shall include the statement of significance and research objectives, and the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.

Reason: To ensure satisfactory archaeological investigation and recording in accordance with Policies DM11, 12 and 13 of the Site Allocations and Development Management Policies (2016).

14. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 14; and provision has been made for analysis, publication and dissemination of results and archive deposition has been secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure satisfactory archaeological investigation and recording in accordance with Policies DM11, 12 and 13 of the Site Allocations and Development Management Policies (2016).

APPENDIX B

ITEM 10

19/00607/FUL

Primrose Consulting Ltd,

Site:- Land West Of, Breach Lane, Earl Shilton

Proposal:- Erection of 3 detached dwellings

Introduction:-

The submission of geophysical and geotechnical surveys of the application site have indicated that the majority of the application area has a negligible archaeological interest, due to the extent of the former backfilled extraction pit. However the available historic mapping and geophysical survey data, indicates that a probable late 19th century brick kiln, is located immediately to the west of the southernmost development plot (3). The kiln appears to lie across the property boundary, but a significant proportion lies within the present site. It is recommended that the applicant is required to undertake a programme of archaeological mitigation to address the impact of development upon this structure. These works should comprise either protection in situ for the surviving archaeological deposits, or their prior excavation and recording in advance of groundworks for either the site remediation or any proposed development of Plot 3.

Recommendation:-

Replace condition 2 with:-

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

Site location and Block plan – 5A-03.09.19

Proposed street scene – 5A-03.09.19

Site plan – 5A – 03.09.19

Received by the Local Planning Authority on 4 September 2019

Plot 1 Ground floor Plan – 6A -01.07.19

Plot 1 First floor plan – 6A.01.07.19

Plot 1 Roof Plan – 6A.01.07.19

Plot 1 Elevations – 6A .01.07.19

Plot 1 Plot Plan – 6A.01.07.19

Plot 2 Ground floor plan 4A.01.07.19

Plot 2 First floor plan 4A.01.07.19

Plot 2 Roof plan 4A.01.07.19

Plot 2 Elevations – 4A-01.07.19

Plot 2 Plot Plan – 4A.01.07.19

Plot 3 Ground Floor plan 3A.01.07.19

Plot 3 First floor plan 3A.01.07.19

Plot 3 Roof plan 3A.01.07.19

Plot 3 Elevations 3A.01.07.19

Plot 3 plot plan 3A.01.07.19

Received by the Local Planning Authority on 4 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).

Following receipt of the above advice received from LCC Archaeology Condition 13 should be re-worded to read as follows:

13. No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and
- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason: To ensure satisfactory archaeological investigation and recording

The WSI must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

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Planning Committee 4 February 2020
Report of the Planning Manager

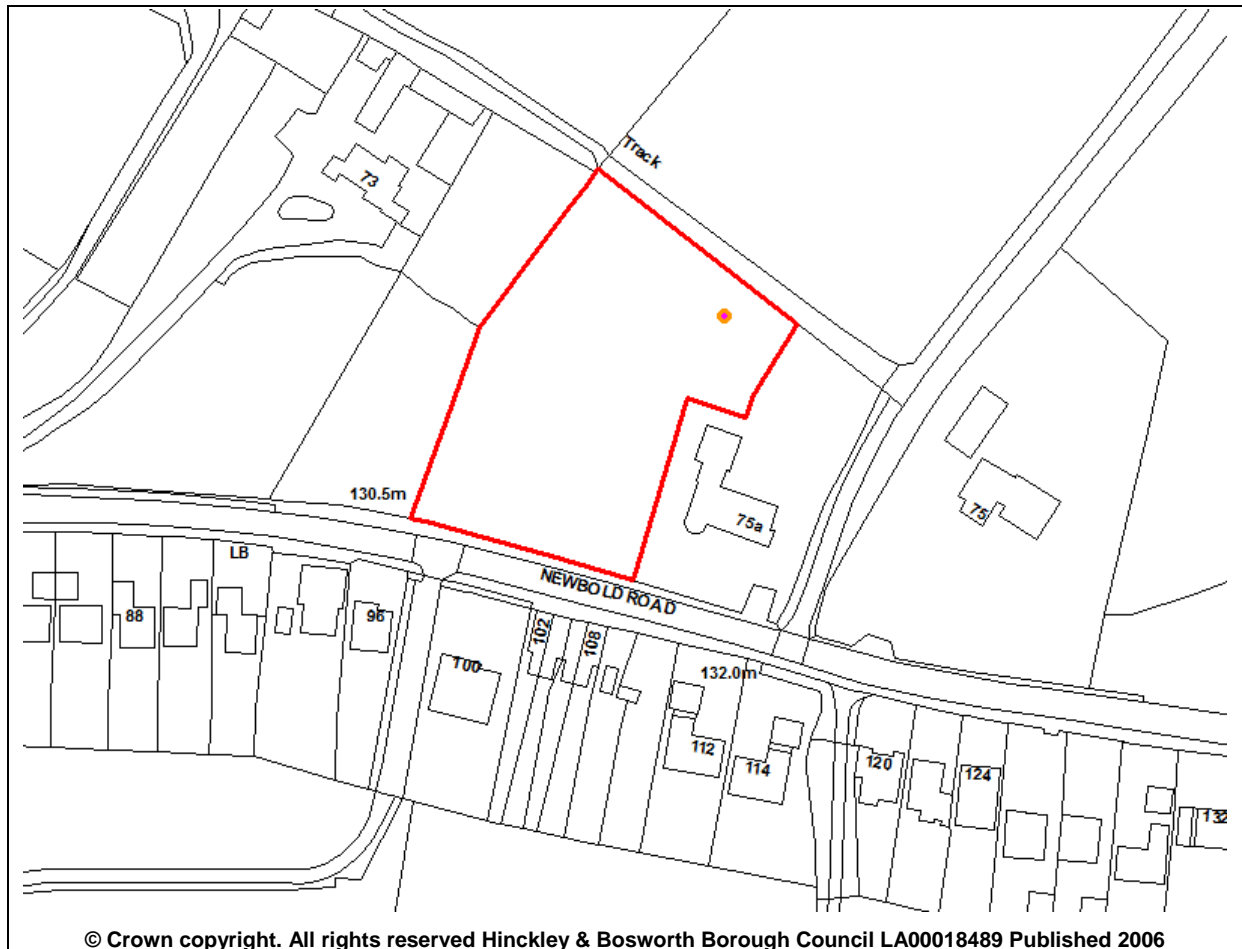
Planning Ref: 19/00496/FUL
Applicant: Mr J Singh
Ward: Barlestone Nailstone And Osbaston



Hinckley & Bosworth
Borough Council

Site: 75A Newbold Road Barlestone

Proposal: Erection of 8 dwellings and associated access



This application was taken to the previous Planning Committee on 7 January 2020. The previous report is attached to this report as Appendix A.

1. Recommendation

- 1.1. On the 7 January 2020 committee resolved the application be granted subject to:-
- 1.2. *The Planning Manager be granted delegated authority to approve permission subject to:*
 - *The conditions contained in the officer's report;*
 - *An additional condition in relation to surface water drainage;*
 - *A condition requiring a footpath along the frontage of the site to be provided.*
 - *Additional note to applicant regarding notifying the Coal Authority.*

- 1.3. Following this, advice was sought from LCC Highways with regards to the suitability and deliverability of a footpath. The strip of land where the footpath would be located is within the ownership of LCC, therefore any footpath would have to be constructed to adoptable standards. This means the footpath would have to be 2m in width and surfaced in tarmac therefore, the provision of the footpath in a non-standard construction to take account of the root protection zone of the adjacent TPO trees, is uncertain. Further to this, there are two telegraph poles and two manhole covers within this land, meaning there are services within this highway verge. Both the services and root protection zones, raise concerns for maintenance of a non-standard construction specification footpath, resulting in LCC being unlikely to adopt it.
- 1.4. As a result, the applicant has provided an amended plan showing a pedestrian gate, at the far west corner of the site. This would allow residents of the proposed dwellings to exit the site and join the existing footpath, which is located to the west. Albeit there would be a short span of verge without footpath present. An informative to the applicant will be added to any decision notice to contact LCC Highways about clearing the overgrown section of existing footpath on this side of the highway.
- 1.5. Therefore, the recommendation is unchanged from that set out in appendix A with condition 2 amended to include the amended plan reference and an additional note to applicant.
- 1.6. The additional coal mining informative and drainage conditions are worded below.

2. Recommendation

2.1. Grant planning permission subject to

1. Planning conditions outlined at the end of this report.
2. That the Development Management Manager be given powers to determine the final detail of planning conditions.

3. Conditions

3.1. Condition 2 has been amended to include the amended plan, as follows;

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 HGD18-119-1.6 received 16th May 2019
- Proposed Street Scene HGD18-119-1.8 received 16th May 2019
- Proposed Ground and First Floor Plans and Elevations Plot 3 HGD18 119-1.2 F received 16th May 2019
- Proposed Ground and First Floor Plans and Elevations Plot 1,2,4-8 (inc.) HGD18-119-1.1 D received 16th May 2019
- Landscaping Plan DWG No. EML MH 1095 01 Rev A received 15th July 2019
- Proposed Site Plan Drawing- Tree Protection Fence HGD18-119-1.3 rev T received 22nd January 2020
- Proposed Site Plan Drawing HGD18-119-1.4 rev. H received 22nd January 2020

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).

3.2. Condition 13 as set out in appendices A should be replaced with the following;

13. Prior to commencement of development details in relation to the management of surface water on site during construction of the development shall be

submitted to, and approved in writing by, the Local Planning Authority. 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.

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

14. Prior to commencement of development details in relation to the long term maintenance of the sustainable surface water drainage system on the development shall be submitted to and approved in writing by the Local Planning Authority. Details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the development site.

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 adopted Site Allocations and Development Management Policies DPD.

4. Notes to Applicant

- 4.1. Additional informative shall be added, as follows;

4. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.
5. The applicant should contact LCC Highways with regard to clearance of the overgrown footpath on the north side of Newbold Road, Barlestone.

APPENDIX A

Planning Committee 7 January 2020
Report of the Planning Manager



Hinckley & Bosworth
Borough Council

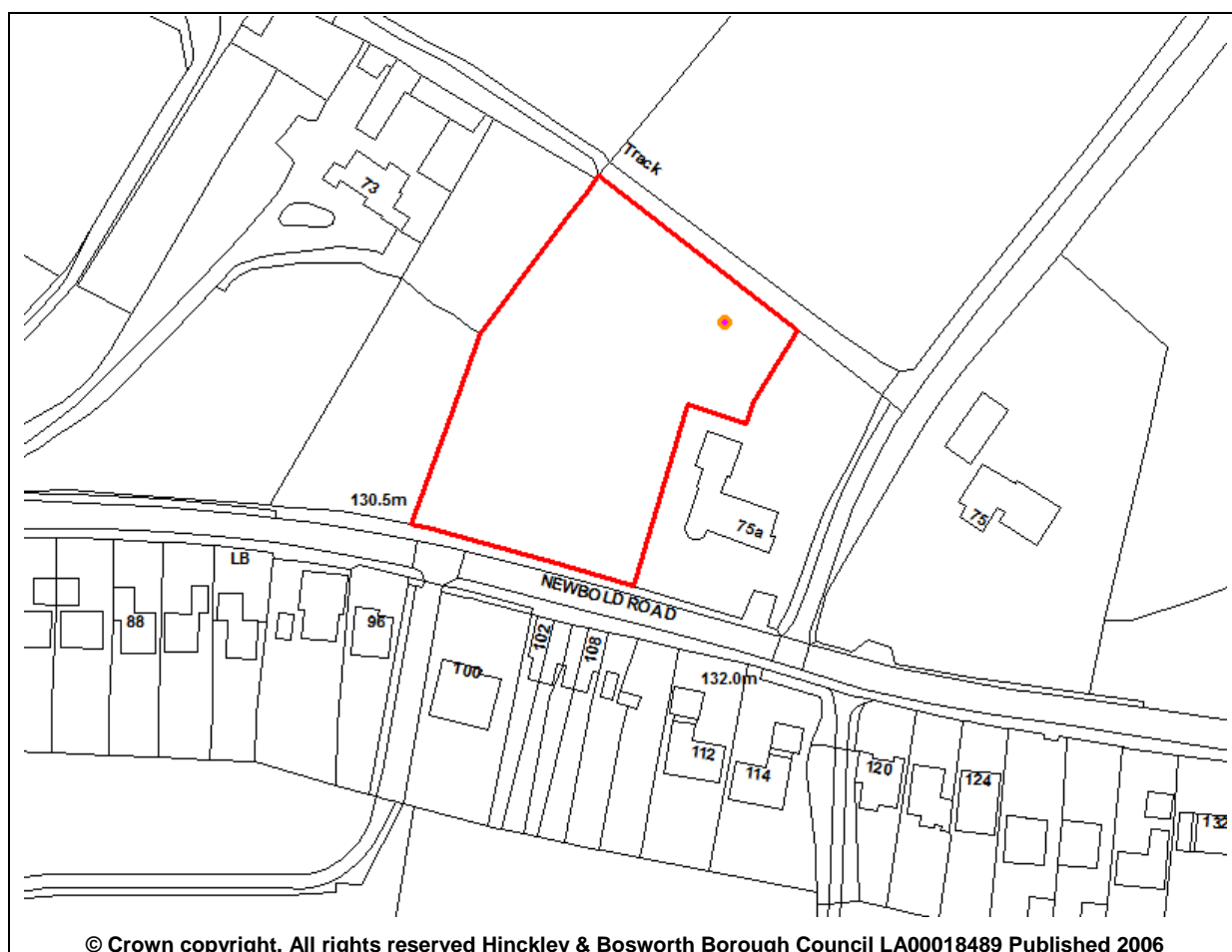
Planning Ref: 19/00496/FUL

Applicant: Mr J Singh

Ward: Barlestone Nailstone And Osbaston

Site: 75A Newbold Road Barlestone

Proposal: Erection of 8 dwellings and associated access



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

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

2. Planning Application Description

2.1. This application seeks full planning permission for the erection of 8, two storey detached dwellings each with 4 bedrooms.

2.2. There is a single proposed access point from Newbold Road, between two mature TPO trees, which are to be retained. Each property benefits from off street parking,

garaging and front and rear gardens. The layout is formed of 3 properties fronting Newbold Road, Plot 1-3, which are slightly set back from the street, with plot 4 set beyond this, central to the site facing west on to the internal road that returns back in to the site providing a frontage to 4 dwellings, plot 5-8, situated along the northern boundary. A turning head is provided to the end of the cul-de-sac.

- 2.3. The application is supported by a Landscape Plan an Arboricultural Impact Statement and a Hard Surface Method Statement to demonstrate that the access into the site will allow for the retention of trees along the boundary. An Ecological Assessment (including Protected Species) has been undertaken to identify any potential ecological constraints.

3. Description of the Site and Surrounding Area

- 3.1. The site is 0.41ha, located on the north side of Newbold Road within the settlement boundary of Barlestone. The site currently forms part of 75A Newbold Road which is a detached bungalow situated to the east of a primarily soft landscaped garden with a central pond area and mature tree planting. There are no buildings/structures on site.
- 3.2. The boundary adjacent to the highway is defined by hedgerows sat behind timber rail fencing with a belt of mature trees, which are protected by a County Tree Preservation Order (73/00001/TPORD).
- 3.3. Along Newbold Road, in the immediate area, there are residential properties with varied architectural style. This ranges from a row of Victorian terraced properties, modern built detached and semi-detached houses and some bungalows. Newbold Road is defined by ribbon development and tree lined road, leading to the centre of the village.
- 3.4. There are no properties within the immediate area that are listed buildings nor is the site within or near a conservation area.

4. Relevant Planning History

00/00632/FUL	Erection of three bungalows	Refused	11.10.2000
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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. 12 letters of objection have been received from 12 separate addresses, the comments are summarised below:
 - 1) Access on to main road would be unsafe, Newbold Road already experiences speeding;
 - 2) Parked cars on road opposite proposed access already cause an obstruction;
 - 3) There is no pavement on this side of the road, which would be a hazard for residents. Footpath on opposite side of the road is steep and dangerous;
 - 4) Loss of trees would affect drainage;
 - 5) Cottages opposite have flooded in the past;
 - 6) No demand for this type of housing in the village;
 - 7) Out of character with the area and site is over developed;
 - 8) Permission for housing already granted further up the road, which has a negative impact upon neighbours;
 - 9) Permission for three bungalows has already been refused on the site;
 - 10) TPO trees at risk of damage;

- 11) Likely increase in parking on main road and lack of parking for visitors, garages would not be used for parking;
- 12) No SUDs have been proposed, the existing pond is not lined and its removal would cause flooding issues;
- 13) Sewers can not cope with additional run off;
- 14) Previously found unsuitable for allocation in the SHLAA;
- 15) Boundary treatments are already being erected and trees already removed;
- 16) There are two commercial small holdings less than 30m from the site;
- 17) There have been accidents outside of the planned properties, including a fatality;
- 18) The access is not wide enough for a bin lorry to enter and turn;
- 19) Landscaped area to front would be used for parking, which would lead to damage of the TPO trees;
- 20) Barlestone's housing allocation has already been met;

6. Consultation

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

- HBBC (Pollution)
- HBBC (Waste)
- HBBC (Drainage)
- LCC (Archaeology)
- LCC (Ecology)
- Severn Trent Water
- LCC (Tree Officer)
- Lead Local Flood Authority

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone
- Policy 15: Affordable Housing
- Policy 16: Housing Density, mix and design

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and 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. National Planning Policies and Guidance

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

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage

Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and states 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).
- 8.3. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Barlestone is identified as a Key Rural Centre within Policy 7 and 11 of the Core Strategy. To support Barlestone's role as a Key Rural Centre, Policy 11 allocated a minimum of 40 new homes in Barlestone.
- 8.4. Since the adoption of the Site Allocations and Development Management Policies (2016) DPD which allocated sites in Barlestone in accordance with the Core Strategy only BARL03 has been delivered, providing 8 dwellings, no other allocations have come forward. Barlestone has seen little growth, with only 17 dwellings being completed since the adoption of the Core Strategy and has not yet met its housing need for the current plan period.
- 8.5. In addition to the above, 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 and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.6. Given that the proposal is within the settlement boundary of Barlestone, a Key Rural Centre, and the housing allocation is expressed as a minimum, the proposal is in principle acceptable, subject to all other material considerations being satisfactorily addressed.
- 8.7. Barlestone is designated as a Neighbourhood Area, however it is yet to submit a Neighbourhood Development Plan to the Council, therefore this currently holds very limited weight in the decision making process.

Affordable Housing, Housing Mix and Density

- 8.8. Policy 15 of the Core Strategy requires residential development in rural areas to provide 40% Affordable Housing on developments of 4 or more dwellings, with a tenure split of 75% affordable rented and 25% intermediate.
- 8.9. 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 Barlestone. However, this policy also sets out where individual site characteristic dictate and are justified, a lower density may be acceptable. Policy 16 also requires a mix of house types and tenure on developments of more than 10.

- 8.10. The application proposes 8 large 4 bedroom detached properties. The density requirements set out in Policy 16 would require 14 dwellings to be provided on a site of this size. Clearly the proposal is in conflict with this policy as the site provides 8 dwellings. However, Policy 16 does state that a lower density may be acceptable where individual site characteristics dictate. In this instance the site is on the edge of Barlestone, in an area characterised by ribbon development creating a transition between the built up area and the wider countryside. This side of Newbold Road is characterised by a lower density built development, some of which is set back from the highway and screened by mature planting. This site is situated between the existing bungalow on the site and No.73 which is set much further back from the highway, both of these dwellings are set within large plots. It is considered that a lower density in this instance is acceptable and would better reflect the character of the immediate area rather than a dense proposal. Further to this, the requirement of this policy to provide a mix of house types and tenures is not triggered as the proposal is for 8 units, not exceeding the 10 set out in the policy, therefore the 8, 4 bedroom detached properties is acceptable in this regard.
- 8.11. The Core Strategy requires development in the rural area of 4 or more dwellings to provide 40% affordable housing, this has been superseded by the provisions of the Planning Practice Guidance which states that Authorities should only seek affordable housing contributions for residential developments which are major developments, defined in the NPPF as developments where 10 or more homes will be provided or the site has an area of 0.5 hectares or more. Neither of these criteria applies in this case and no affordable housing contribution is therefore required.
- 8.12. It is considered that the proposal provides for an acceptable housing mix and density and is not required to provide any affordable housing in accordance with Policies 15 and 16 of the Core Strategy (2009).

Design and impact upon the character of the area

- 8.13. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.14. Development on this side of the road is more sporadic than the other side of the road, the layout of the proposal and the screening provided by mature trees to the front of the site, would mean that from the street scene 3 large plots would be visible, with the development in depth not being overtly present. There are other examples along Newbold Road of large modern detached properties set back from the adopted highway by a shared access. Plots 2 and 3 are handed to one another, as are 5 and 6, 7 and 8, therefore adding interest to the street scene. Plot 4 is set on the return, not fronting Newbold Road, although plot 4 appears isolated in plan form, the dual frontage of plot 3 gives an active frontage to this return, therefore plot 4 would not appear isolated from within the development and would maintain an active street scene that would form a strong character. Plot 4 also prevents the access that runs along this site boundary from being characterised by an expanse of boundary treatments and offers a more attractive development that maximises natural surveillance. Overall it is considered the layout and density would not adversely impact the character of the surrounding area.
- 8.15. Each of the 8 dwellings is similarly designed, they are all two storey in scale with a ridge height of around 8.2m from ground level. Each of the dwellings proposes a dual gable frontage with a pitched roof, attached single storey garage, single height bay window and recessed porch with a mono-pitch roof above. Each dwelling has front and rear amenity space and off street parking. The proposed materials are facing brick and tiled roofs, the details of which should be agreed by condition. Overall, the design and scale of the dwellings responds to the character of the area.

- 8.16. A landscaping plan has been provided with the application which details the proposed soft landscaping scheme. Plots 1 to 3 are set back from the highway, with the proposed shared access severing the front amenity areas from some further grass and bulb planting, a plan has been provided indicating the residents of those fronting plots would be responsible for the corresponding landscaping to the front boundary. This landscaping is set behind a retained hedgerow and mature trees, which are protected by a LCC Tree Preservation Order fronting Newbold Road. The access to the western boundary is flanked by turf and shrub planting as well as additional tree planting. The soft landscaping scheme is consistent throughout the site and runs round to the front of plots 5-8 (inclusive). There were a large number of trees contained within the site, especially to the North West corner, these were not protected and have since been removed. It is considered that subject to a condition requiring maintenance of the proposed landscaping, the proposed scheme would add to the overall development quality and would maintain the verdant character of the area.
- 8.17. The proposed access point and shared driveway runs through the Root Protection Areas of the large mature trees to the front of the site, which are covered by a TPO. Therefore a plan has been provided to indicate the extent of the RPA and confirmation that a no-dig driveway construction would be used in these areas. This is considered acceptable by HBBC Tree Officer and LCC Tree Officer, subject to conditions requiring details of the construction method and protection of the trees through the construction phase. The access was initially proposed to be position to the south west corner of the site. However, this was arranged following discussions with LCC Tree Officer and HBBC Tree officer who sought to move the access to a position which would have the least impact upon the RPA's of the TPO trees. The proposed location of the access is the furthest point from any of the trunks of the protected trees.
- 8.18. For the reasons set out above, the proposed development is in accordance with Policy DM10 of the Site Allocations and Development Management.
- 8.19. Impact upon neighbouring residential amenity
- 8.20. 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.
- 8.21. No.75A Newbold Road is the existing bungalow that the site relates to. This bungalow would become severed from the application site and a 1.8m close boarded fence has already been erected along the assumed new boundary line. 75a is currently set within a very large plot, with the application site taking up the garden area to the west of the bungalow. However, there is still a large amount of open amenity space available to the north east of the bungalow that would provide adequate amenity space for any occupiers. Plot 8 of the proposed development would sit closest to the rear elevation of no.75a and would flank the rear amenity space of this existing dwelling. Plot 8 is set off the boundary with the rear garden by 2.2m-3m and is single storey at this point for a width of 3m; therefore, the two storey element of this plot is set some 5-6m away from this boundary. There are no side facing windows proposed on this elevation that could cause concern for overlooking to this private amenity space and the separation distance and size of the garden area to this dwelling would mean that adequate levels of residential amenity would be retained. The front of plot 8 is set at an angle to the rear of No.75A and so does not directly overlook the rear of the dwelling, anyhow this is the

location of the garage to this bungalow and so there would be limited over looking or loss of privacy.

- 8.22. No.73 is the neighbouring dwelling to the west; this is set back from Newbold Road by a long private driveway, with the buildings being set towards to the northern boundary. The site is surrounded by mature tree planting and is not highly visible from Newbold Road. There is an area of open grass land and a row of mature tree planting to the front of No.73 that divides this property from the application site at the southern portion of the site, this part of the site is also served by a separate access. Plots 3 and 4 are located closest to this part of the site; however, they are set off from the boundary between 8-13m. Plot 4 does face this amenity space, however, is set furthest in to the site at around 13m; therefore it is considered that this would not create undue overlooking or loss of privacy. Plot 3 has a dual frontage and so does have windows facing this amenity area, set at around 8m from this neighbouring amenity area. There is one first floor bedroom window facing this space, however, it is considered this is a sufficient separation distance. In addition to this, this is not the main area of amenity space that relates to the residential property and there are other more private areas that are also closest to the house. To the northern boundary No.73 has an enclosed space with a number of green houses and brick built ancillary garden buildings and appears more as the used amenity space, plot 5 is the closest proposed dwelling and is set against the boundary, although off set by around 1m. This proposed dwelling has no side facing windows that could create an overlooking or loss of privacy to this amenity space. Albeit this property is set close to the boundary with this garden area which is also set at a lower land level, the amenity space is expansive, with open countryside to the north and views either side of the proposed plot; therefore it is not considered to cause adverse enclosure to this space that would warrant refusal of the application. Furthermore, there are other landscaped areas of private amenity space immediately adjacent to No.73. This property also has an A1 element to it (shoe shop), which is located in the two storey building to the rear of No.73.
- 8.23. There are residential properties to the south of the application site, set to the other side of Newbold Road. There is a row of terrace properties opposite the proposed access point, the separation distance from these dwellings to plots 1-3 which are facing is extensive and ensures adequate levels of privacy are maintained. In addition, this separation distance means that these properties would not become enclosed by the proposal. The existing hedgerow and mature trees are to be maintained which would screen the proposal from these dwellings. The proposed access is opposite these dwellings, however, given that the access would serve only 8 dwellings, it is unlikely that use of this access would cause undue noise or disturbance to these neighbouring residential dwellings. No.100 Newbold Road is set back from the highway and so any potential impacts are further reduced, there is also an existing farm entrance opposite the south west corner of the site. The proposed access is staggered from this, minimising conflict.
- 8.24. Each of the proposed dwellings has a rear private amenity space that range in size from 115sqm to 190sqm, all of which are deemed to be adequate to serve a 4 bedroom dwelling. Plot 3 has rear facing habitable room windows that face on to the blank side elevation of plot 4, the ground floor has an open plan kitchen and family area with several windows serving this one large room some of these windows are 9m from plot 4, this is not a generous separation. However, given the position of the windows, quantum and relationship between the two plots adequate amenity levels are still achieved. The first floor windows are 11m from the side elevation, again adequate amenity is achieved. Plot 1 and 2 overlook plot 4 rear amenity space, however, the depth of the rear amenity space means that adequate levels of privacy

are achieved. Plot 5-8 all overlook the shared access providing natural surveillance to the site, there are no concerns of overlooking or enclosure to these plots.

- 8.25. The proposal is therefore considered to be in accordance with Policy DM10 as the amenity of neighbouring occupiers of the proposed development would not be adversely affected to warrant refusal of the application.

Impact upon highway safety

- 8.26. 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.
- 8.27. There has been a large amount of concern raised by local residents with regards to the speed of traffic travelling along Newbold Road and safety issues that this poses. However, LCC Highways comment that the impact of the development on highway safety would not be unacceptable and impacts upon the road network would not be severe. This proposed development can not be responsible for the behaviour of other drivers. The proposed site access achieves adequate visibility splays, there is a telegraph pole that will require re-locating however, this would be at the expense of the developer.
- 8.28. A number of objections have raised concerns with the lack of public footpath on this side of Newbold Road. However, amended plans have been received that show there is adequate space at the access for a pedestrian refuge that would allow pedestrians to wait at the access and cross to the footpath.
- 8.29. Each of the dwellings proposed two off street parking spaces to the front, plus one additional space in a single attached garage. This is in accordance with LCC Highways Design Guides.
- 8.30. Therefore, the proposed development is in accordance with Policy DM17 and DM18 of the SADMP DPD (2016) and the guidance contained within the NPPF (2019).

Drainage

- 8.31. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding.
- 8.32. A Flood Risk Assessment (FRA) has not been submitted with the application in accordance with paragraph 163 of the NPPF. The application site does not exceed the thresholds requiring a site specific FRA and is not in an area identified as being a critical drainage area. However, the Environment Agencies Flood Risk Maps do identify that the site is at high risk from surface water flooding as a surface water flow route travels through the centre of the site from north east to south west. The Lead Local Flood Authority has responded stating that standing advice should be followed. LLFA standing advice states that flow routes should be avoided for buildings, however the proposal does show dwellings to be positioned in this current surface water flow route. The LLFA state that the finished floor level of the buildings should be 300mm above ground level to address this.
- 8.33. Therefore, the applicant has provided a drainage report to demonstrate that the site can accommodate built development and would not exacerbate nor create surface water flooding issues. The report sets out that all post development run-off from the site will be limited to 5 litres/second in accordance with best practice. Attenuation and reduced discharge will be provided for all storm events up to and including the

1 in 100-year storm plus 40% allowance for climate change. Sustainable Drainage Systems (SuDS) shall be used, including an area of tanked permeable paving for surface water attenuation and silt traps, however other infiltration strategies have been deemed not to be acceptable for this site. New sewer connections are proposed to Barlestone Road (both surface and foul) connecting to the existing combined sewer, there are no suitable existing surface water bodies for the site to discharge to. An additional 10% allowance for urban creep has been included in the sizing of attenuation. The existing flow routes are maintained through the site using the proposed roadways. The submitted strategy also takes account of the strategy for managing surface water drainage during construction.

- 8.34. Severn Trent Water commented on the proposal they do not object to the application, however, require a condition for a surface and foul drainage strategy to first be submitted and approved. This is deemed to meet the tests, being a reasonable condition.
- 8.35. Therefore, subject to conditions the application is considered to be acceptable in accordance with Policy DM7 of the SADMP.

Ecology

- 8.36. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.37. Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.38. An ecology appraisal was submitted in support of the application and found no evidence of protected species on site, the appraisal was found to be satisfactory by LCC (Ecology). LCC Ecology, suggest that the recommendations as set out in the report are followed by the developer.
- 8.39. It is acknowledged that the proposal includes the loss of pond, however, this is not of such value that its loss warrants refusal of the application or mitigation. The proposed site is not of a size that would require open space to be provided on site.

Archaeology

- 8.40. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 8.41. The Leicestershire and Rutland Historic Environment Record (HER) identifies that the proposal lies within an area of archaeological interest to the north of the site, where Roman pottery and coins were found (HER ref: MLE10258). As the proposal would include works such as foundations, services and landscaping, it is likely to result in an impact. LCC (Archaeology) have requested conditions requiring a Written Scheme of Investigation which is deemed to be justified based on other archaeological finds in the area. Subject to the inclusion of this condition the development would accord with Policy DM13 of the SADMP.

Infrastructure Contributions

- 8.42. 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.

- 8.43. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm 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.
- 8.44. In this instance the proposed site area and number of dwellings do not exceed the thresholds for requiring the delivery of affordable housing or on site play and open space. Any requested infrastructure contribution for public play and open space off facilities off site would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant. However, in this case, the proposal would not result in any significant impact on existing play and open space facilities given that the site is in excess of the recommended distances to play and open space facilities that means it is not reasonable to expect the proposed development would cause significant pressures on facilities that would warrant a contribution being sought.
- 8.45. Further to this, as the proposal is for 8 dwellings, it is not expected that the proposal would have an adverse impact on other infrastructure services and facilities within the village that would require mitigating. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued.

Other Matters

- 8.46. Some of the objectors refer to a previous planning application at the site, ref: 00/00632/FUL, which was refused as it was considered to be out of keeping with the character of the area and the access was not deemed to be suitable. However, this application was limited to a piece of land to the rear of the existing bungalow, using a different access point to the one proposed. Therefore, there are substantial differences between the two schemes and a passage of time where policy has changed, which means it is logical for the Council to be able to reach an alternative recommendation.
- 8.47. The application falls within the coal mining reporting area, this means that an informative should be added to any decision notice making the applicant aware. This is not the development high risk area, where a coal mining risk assessment would be required.
- 8.48. There are no Public Rights of Way affected by the proposal.
- 8.49. HBBC (Waste) has recommended a condition requiring adequate provision for waste and recycling storage and collection. An amended plan has been received that confirms bin collection from the highway edge.

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 is located within the settlement boundary of Barlestone where development inside the settlement boundary is considered to be sustainable. In addition to this the proposal would result in the delivery of 8 houses. These additional houses have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 9.4. The proposed housing would be lower density than required by Policy 16 of the Core Strategy. However, it is considered in this instance this is acceptable in achieving a well designed development that sits well within the edge of settlement location.
- 9.5. Paragraph 11 (d) of the NPPF states that any harm identified should be significant and demonstrably out weigh 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.
- 9.6. The proposal would result in economic benefits through the construction of the scheme through creation of jobs and construction spends, albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services such as the shop, public house and sports facilities.
- 9.7. The proposal would result in some social benefit through contributing to the delivery of housing within the Borough and some minor environmental benefits through additional landscaping.
- 9.8. There has been no conflict identified with the strategic policies of the Development Plan and very limited harm through not achieving the density as set out in Policy 16 of the Core Strategy, it is considered on balance that the very limited harm does 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.

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 housing policies in the adopted Core Strategy and the adopted SADMP are 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.
- 11.3. Weighed against any 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 8 dwellings. These additional houses have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 11.4. The proposal, subject to conditions, is in accordance with Core Strategy Policy 7 and 11, and Policies DM3, DM6, DM7, DM10, DM13, DM17 and DM18 of the SADMP there has only been minor conflict found with Policy 16 of the Core Strategy.
- 11.5. On balance it is considered that the harm identified from a low density development, contrary to the desired policy position, in a relatively open area, within the settlement boundary, would not significantly and demonstrably outweigh the identified benefits of the scheme. Therefore, the presumption in favour of sustainable development applies in this case and 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
- Planning conditions outlined at the end of this report.
- 12.2. That the Planning Manager be given powers to determine the final detail of planning conditions.
- 12.3. **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 HGD18-119-1.6 received 16 May 2019
 Proposed Street Scene HGD18-119-1.8 received 16 May 2019
 Proposed Ground and First Floor Plans and Elevations Plot 3 HGD18 119-1.2 F received 16 May 2019
 Proposed Ground and First Floor Plans and Elevations Plot 1, 2, 4-8 (inc.) HGD18-119-1.1 D received 16 May 2019
 Landscaping Plan DWG No. EML MH 1095 01 Rev A received 15 July 2019
 Proposed Site Plan Drawing- Tree Protection Fence HGD18-119-1.3 S received 24 October 2019
 Proposed Site Plan Drawing HGD18-119-1.4 G received 24 October 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 above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance 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. Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 5.8 metres, a gradient of no more than 1:12 for a distance of at least 5 metres behind the highway boundary and shall be surfaced in a bound material. The access once provided shall be so maintained at all times.

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

5. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD, the National Planning Policy Framework (2019).

6. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with HG Design Ltd. drawing number HGD18-119-1.4. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with

Policy DM17 of the Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2019).

7. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of, 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 to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2019)

8. No development shall not take place until a hard landscaping scheme including details of boundary treatments and hard surfacing details and an implementation scheme for soft and hard landscaping, has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved details prior to first occupation of any dwelling hereby approved. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

9. Before Development Commences a Tree Protection Fence shall be erected in accordance with the details on plan Proposed Site Plan Drawing HGD18-119-1.3 S received 24th October 2019. Any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policies DM10 and DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

10. No works or development shall take place within the site until a site specific no-dig access drive construction method statement has been submitted to and approved in writing by the local planning authority that demonstrates that no-dig surfacing and construction is fit for purpose within an identified Root Protection Area (RPA). The construction method statement shall also include a phasing strategy demonstrating how the RPA will be observed during construction of the approved dwellings and access. The development shall then be implemented in accordance with the approved scheme.

Reason: To ensure that works within a root protection area are carried out in accordance with BS5837:2010 S.7.4. and the interests of protecting the TPO trees in accordance with DM10 and DM6 of the Site Allocations and Development Management Policies (2016) DPD.

11. Construction work of the development, hereby permitted, shall not take place other than between the hours of 07:30 hrs and 18:00 hrs on weekdays and 08:00 hrs and 13:00 hrs on Saturdays and at no time on Sundays and Public Holidays unless other agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

12. No development shall take place/commence until a programme of archaeological work, comprising further post-determination trial trenching, specific metal-detecting and as necessary targeted archaeological investigation. The full programme and timetable will be detailed within a Written Scheme of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site survey, investigation and recording (including assessment of results and preparation of an appropriate mitigation scheme)
- The programme for post-investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis, interpretation and presentation of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works, with particular reference to the metal detecting survey, as set out within the Written Scheme of Investigation.

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

Reason: To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

13. No part of the development hereby permitted shall be occupied until such time as the drainage strategy has been carried out in accordance with the submitted Wallace Engineering Drainage Report; Report number 1784/01 dated October 2019. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policies DM7 and DM17 of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 108 and 110 of the National Planning Policy Framework (2019).

14. No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have

been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

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

12.4. Notes to Applicant

1. 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>.
2. The proposed road layout does not conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the Local Highway Authority. The Local Highway Authority will, however, serve Advance Payment Codes in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the Advanced Payment Code may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details please email road.adoptions@leics.gov.uk. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it.
3. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, 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 and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protect both the public sewer and the building. Should you require any further information please contact Severn Trent on Planning.APEast@severntrent.co.uk.

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PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 24.01.20

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	Appeal Valid	DATES
	EC	19/01145/HOU		Mr York 14 Almond Way Earl Shilton LE9 7HZ	Thirlmere 42 Far Lash Burbage	Awaiting Start Date	
	RH	19/01011/OUT	PI	Gladman Developments Ltd Gladman House Alexandria Way	Land South Of Cunnery Close Barlestone (Residential development for up to 176 dwellings with public open space, landscaping and sustainable drainage systems (SuDS) (Outline - access only))	Notification of intention to submit the appeal received (Likely submission date of appeal 31.01.20)	17.01.20
	SW	19/00934/OUT (PINS Ref 3244630)	WR	Ms J Cookes 2A Drayton Lane Fenny Drayton	2A Drayton Lane Fenny Drayton Nuneaton (Erection of one dwelling (Outline with layout to be considered))	Awaiting Start Date	
	OP	19/01079/CONDIT (PINS Ref 3244583)	WR	Mr Ricky Child 89 Hinckley Road Burbage	339 Hinckley Road Burbage (Removal of condition 9 (removal of permitted development rights) of planning permission 19/00413/FUL)	Awaiting Start Date	
	GS	19/00929/HOU (PINS Ref 3243531)	WR	Mr Leigh Jones 28 Hall Lane Witherley Atherstone	28 Hall Lane Witherley Atherstone (Single storey extension to front and rear, two storey rear extension, first floor front and side extension)	Awaiting Start Date	
	GS	19/00887/HOU (PINS Ref 3244239)	WR	Mrs Lisa Mallon 22 Flaxfield Close Groby	22 Flaxfield Close Groby (Single storey front, side and rear extension, including new fence and gates)	Appeal valid Awaiting Start Date	09.01.20

20/00002/PP	GS	19/01049/FUL (PINS ref 3243667)	WR	Mrs Susan Birch Wrask Farm Desford Road Newbold Verdon	Land West Of Wrask Farm Desford Road (Erection of one dwelling)	Start Date Questionnaire Statement of Case	21.01.20 28.01.20 25.02.20
20/00001/PP	SW	19/00996/FUL (PINS Ref 3243353)	WR	Mr & Mrs A Sanderson Garland Gables Garlands Lane Barlestone	Garland Gables Garland Lane Barlestone (Conversion of ancillary domestic storage building to a four bed dwelling and demolition of a barn)	Start Date Statement of Case Final Comments	13.01.20 17.02.20 02.03.20
19/00045/PP	CG	19/00957/FUL (PINS Ref 3241551)	WR	Mr F Williams 44 Mansion Street Hinckley	44 Mansion Street Hinckley (Reduction of garage with first floor extension with alterations to existing including outdoor sitting area)	Start Date Statement of Case Final Comments	20.12.19 24.01.20 07.02.20
19/00044/PP	CG	19/00486/FUL (PINS Ref 3241548)	WR	Mr F Williams 44 Mansion Street Hinckley	44 Mansion Street Hinckley (Two storey and first floor extensions to existing garage/store)	Start Date Statement of Case Final Comments	20.12.19 24.01.20 07.02.20
19/00039/PP	GS	19/00198/OUT (PINS Ref 3239130)	WR	Mrs Zoe Finlay Spring Hill Farm Wykin Road Hinckley	Land Adjacent To 29 Elizabeth Road Hinckley (Erection of one dwelling (outline - all matters reserved))	Start Date Awaiting Decision	06.11.19
19/00040/PP	CG	19/00732/FUL (PINS Ref 3238555)	WR	Mr Singh Marble Homes Ltd 27-35 Sussex Street Leicester	112 High Street Barwell (Development of two 1 bedroom flats)	Start Date Awaiting Decision	11.11.19
	CG	19/00391/CLUE (PINS Ref 3238743)	IH	George Denny Old House Farm Sutton Lane Cadeby	The Old House Farm Sutton Lane Cadeby (Certificate of lawful use for the change of use from agricultural land to	Appeal Valid Awaiting Start Date	29.10.19
	CG	18/01255/CLUE (PINS Ref 3238520)	IH	George Denny Old House Farm Sutton Lane Cadeby	The Old House Farm Sutton Lane Cadeby (Certificate of lawful use for the change of use from agricultural land to residential curtilage)	Appeal Valid Awaiting Start Date	29.10.19

	RW	19/00253/CONDIT (PINS Ref 3236523)	WR	Mr Gerry Loughran Poundstretcher Limited c/o Landmark Planning Ltd	Crown Crest PLC Desford Lane Kirby Muxloe Leicester (Variation of Condition 11 of planning permission 10/00332/FUL and planning permission 12/00313/CONDIT to extend the permitted days and hours during which deliveries can be taken at, or dispatched from, the site to: Mondays to Fridays (including Bank Holidays) 06.00 to 23.00; Saturdays 08.00 to 18.00 and Sundays 09.00 to 13.00.)	Appeal Valid Awaiting Start Date	09.09.19
19/00038/RPAGDO	RH	19/00538/CQGDO (PINS Ref 3236060)	WR	Mr Rob Jones Winfrey Farm Dadlington Lane Stapleton	Winfrey Farm Dadlington Lane Stapleton (Prior notification for change of use of agricultural buildings to 5 dwellinghouses (Class C3) and for associated operational development)	Start Date Awaiting Decision	05.11.19
19/00031/PP	SW	19/00093/FUL (PINS Ref 3235944)	WR	Mr David Jackson SW Jackson Manor Farm 2 Carlton Road Barton in the Beans	Manor Farm 2 Carlton Road Barton In The Beans (Demolition of existing agricultural buildings and erection of 8 dwellings with associated landscaping)	Start Date Awaiting Decision	13.09.19
19/00032/PP	CG	16/00758/FUL (PINS Ref 3234826)	WR	Mr Atul Lakhani Farland Trading Ltd 36 Thurnview Road Leicester	Land Adjacent 121 Station Road Bagworth (Erection of 10 no. dwellings and 2 no. flats (100% Affordable Scheme))	Start Date Awaiting Decision	19.09.19
19/00037/ENF	TW	18/00300/UNHOUS (PINS Ref 3234608)	WR	Mr Stuart Mallinson 34 Wendover Drive Hinckley	34 Wendover Drive Hinckley (Erection of a fence adjacent to a highway)	Start Date Awaiting Decision	24.10.19

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 Awaiting Decision	21.06.19
19/00043/ENF	WH	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)	Start Date Final Comments Site Visit	29.11.19 31.01.20 18.02.20
19/00042/PP	WH	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)	Start Date Final Comments Site Visit	29.11.19 31.01.20 18.02.20

Decisions Received

19/00034/FTPP	EC	19/00704/HOU (PINS Ref 3237613)	WR	Mr Paul Wragg Barn B Common Farm Barton Road Carlton	Barn B Common Farm Barton Road Carlton (Extension to existing barn conversion)	DISMISSED	23.12.19
19/00033/NONDET	SW	19/00772/OUT (PINS Ref 3237098)	WR	Mr Michael Hayward Lea Grange Farm Orton on the Hill Atherstone	Lea Grange Farm 11 Twycross Lane Orton On The Hill Atherstone (Demolition of agricultural building and erection of one detached dwelling (outline - access and layout only))	DISMISSED	02.01.20
19/00030/ENF	WH	18/00247/UNHOUS (PINS Ref 3225956)	WR	Miss Helen Crouch 49 Main Street, Bagworth	49 Main Street Bagworth (Creation of a balcony)	DISMISSED	13.01.20

19/00028/FTPP	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)	DISMISSED	13.01.20
19/00029/ENF	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)	DISMISSED	13.01.20
19/00041/FTPP	GS	19/00626/HOU (PINS Ref 3238671)	WR	Miss Debra Suffolk Hawthorne Cottage Main Road Upton Nuneaton	Hawthorne Cottage Main Road Upton (Two Storey Side Extension, Alterations, Detached Garage and revised Site Entrance)	ALLOWED	15.01.20

Designation Period 1 April 2018 - 31 March 2020

Appeal Decisions - 1 April 2018 - 31 December 2019 (Rolling)

Major Applications

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
10	6	4	0	0	2	0	4	3	0	0	1	0	0

November - Total No of all Major decisions made 71/Total No of appeals allowed 3 = 4.2%

December - Total No of all Major decisions made 73/Total No of appeals allowed 4 = 5.4%

Minor/Other Applications

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
61	15	45	1	0	14	1	41	1	0	4	0	0	0

November - Total No of all Minor/Other decisions made 1311/Total No of appeals allowed 10 = 0.76%

December - Total No of all Minor/Other decisions made 1377/Total No of appeals allowed 11 = 0.79%

Enforcement Appeal Decisions

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

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