

# Public Document Pack



Hinckley & Bosworth  
Borough Council

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

**Date: 12 December 2022**

**To: Members of the Planning Committee**

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

Copy to all other Members of the Council

(other recipients for information)

Dear member,

There will be a meeting of the **PLANNING COMMITTEE** in the De Montfort Suite, Hinckley Hub on **TUESDAY, 20 DECEMBER 2022** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

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

Rebecca Owen  
Democratic Services Manager

## Fire Evacuation Procedures

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

## Recording of meetings

At HBBC we are open and transparent about how we make decisions. We allow recording, filming and photography at all public meetings including Council, the Executive and Planning Committee as long as doing so does not disturb or disrupt the proceedings. There may occasionally be some reports that are discussed in private session where legislation requires this to happen, but this is infrequent.

We also allow the use of social media during meetings, which helps to bring the issues discussed to a wider audience.

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

## Use of mobile phones

To minimise disturbance to others attending the meeting, please switch off your phone or other mobile device or turn it onto silent or vibrate mode.

Thank you

## PLANNING COMMITTEE - 20 DECEMBER 2022

### A G E N D A

1. **APOLOGIES AND SUBSTITUTIONS**

2. **MINUTES (Pages 1 - 4)**

To confirm the minutes of the meeting held on 22 November 2022.

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. Items to be taken at the end of the agenda.

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. **22/00302/OUT - LAND NORTH EAST OF 85 BAGWORTH ROAD, NAILSTONE (Pages 5 - 26)**

Application for proposed erection of nine dwelling houses (outline application - all matters reserved).

8. **21/01305/FUL - CHAPEL FIELDS LIVERY STABLES, CHAPEL LANE, WITHERLEY (Pages 27 - 44)**

Application for the construction of five detached dwellings, with associated garages, parking provision, access and landscaping.

9. **22/00733/FUL - 314A STATION ROAD, BAGWORTH (Pages 45 - 60)**

Application for erection of three three-bedroom two storey dwellings, one six-bedroom house of multiple occupation, extension to existing bungalow, widening of access driveway.

10. **22/00473/FUL - THE OLD FORGE, 13 - 15 PARK STREET, MARKET BOSWORTH (Pages 61 - 74)**

Application for proposed extension and alteration to existing three storey dwelling (use class C3) and existing working forge (use class B2) to form a five bedroom hotel with parking and associated facilities.

11. **22/00974/LBC - THE OLD FORGE, 13 - 15 PARK STREET, MARKET BOSWORTH (Pages 75 - 86)**

Application for proposed extension and alteration to existing three storey dwelling (use class C3) and existing working forge (use class B2) to form a five bedroom hotel with parking and associated facilities.

12. **22/00503/FUL - LAND WEST OF MAIN STREET, NORTON JUXTA TWYCROSS (Pages 87 - 108)**

Application for erection of eight detached dwellings, with associated amenity space, landscaping, car parking and refuse/recycling facilities.

13. **21/01331/FUL - KIRBY GRANGE RESIDENTIAL HOME, SPINNEY DRIVE, BOTCHESTON (Pages 109 - 124)**

Application for refurbishment and extension of the existing Polebrook House including demolitions, two storey extensions and landscaping works to extend the residential care home (C2) by 51 bedrooms.

14. **21/01482/HOU - 14 STATION ROAD, RATBY (Pages 125 - 132)**

Application for remodelling of existing dwelling including a two storey rear extension, single storey side extension, roof extensions with attic accommodation and front porch.

15. **22/00124/FUL - ODDFELLOWS ARMS, 25 MAIN STREET, HIGHAM ON THE HILL (Pages 133 - 160)**

Application for hybrid application for the residential development of nine dwellings to include: (1) full application for erection of three dwellings, with associated access, parking and landscaping and (2) outline application for the erection of six dwellings (outline application – all matters reserved except access).

16. **APPEALS PROGRESS (Pages 161 - 166)**

To report on progress relating to various appeals.

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### PLANNING COMMITTEE

**22 NOVEMBER 2022 AT 6.30 PM**

**PRESENT:** Cllr MJ Crooks - Chairman  
Cllr E Hollick – Vice-Chairman  
Cllr CM Allen, Cllr RG Allen, Cllr CW Boothby, Cllr SL Bray, Cllr DS Cope,  
Cllr WJ Crooks, Cllr REH Flemming, Cllr A Furlong, Cllr SM Gibbens,  
Cllr L Hodgkins, Cllr KWP Lynch, Cllr LJ Mullaney, Cllr RB Roberts, Cllr H Smith  
and Cllr BR Walker

Also in attendance: Councillor DC Bill MBE and Councillor MB Cartwright

Officers in attendance: Chris Brown, Tim Hartley, Rebecca Owen and Michael Rice

#### 209. **Minutes**

It was moved by Councillor W Crooks, seconded by Councillor Bray and

RESOLVED – the minutes of the meeting held on 25 October be approved and signed by the chairman.

#### 210. **Declarations of interest**

Councillors C Allen, R Allen, Roberts and Smith declared a personal interest in application 22/00788/OUT as the applicant was a fellow councillor from the same group.

Councillors Roberts and Smith stated they were ward councillors for application 22/00790/FUL but came to the meeting with an open mind.

Councillors Flemming, Lynch and Walker stated they were members of Burbage Parish Council's Planning Committee where application 22/00120/FUL had been considered but they didn't vote at that meeting.

#### 211. **Decisions delegated at previous meeting**

It was reported that the decision in relation to application 22/00835/HOU had been issued, conditions were being confirmed in relation to application 22/00689/FUL and the decision would be issued shortly and application 21/01331/FUL would be brought back to a future meeting.

#### 212. **22/00120/FUL - Michealmas Cottage, 138 Sapcote Road, Burbage**

Application for demolition of existing garage block and stables and the construction of three new dwellings with associated parking and turning facilities.

The agent spoke on the application.

It was moved by Councillor Flemming that permission be refused due to the impact on the amenity of residents. In the absence of a seconder, the motion was not put.

It was moved by Councillor J Crooks, seconded by Councillor R Allen and

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

**213. 21/01359/HOU - 191 Leicester Road, Groby**

Proposal for erection of a raised patio at the rear of the dwelling.

It was noted that the purpose of this item was only to consider whether to pursue or withdraw a revocation order which was currently being considered by the Secretary of State in respect of the extant planning permission granted under delegated powers.

An objector, the agent and the ward councillor spoke on this application.

It was moved by Councillor Bray and seconded by Councillor J Crooks that the revocation order be withdrawn. Upon being put to the vote, the motion was LOST.

Following further discussion, it was moved by Councillor R Allen and seconded by Councillor Furlong that the council pursues the revocation order. Upon being put to the vote, the motion was LOST.

It was subsequently moved by Councillor Bray and seconded by Councillor Lynch that the recommendation within the report be approved. Upon being put to the vote there were six votes FOR the motion and six AGAINST. The chairman exercised her casting vote in support of the motion and it was therefore declared CARRIED and

RESOLVED – the revocation order be withdrawn.

**214. 22/00788/OUT - 14 Chesterfield Way, Barwell**

Application for residential development for three new dwellings with details of means of access, layout and scale.

An objector and the agent spoke on the application.

It was moved by Councillor Bray, seconded by Councillor W Crooks and

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

**215. 22/00790/FUL - Land south east of Dawsons Lane, Barwell**

Application for change of use of land to provide a dog day care facility and associated secure dog walking facility.

During presentation of the application the recommendation was amended to include delegation of authority to the Planning Manager to determine the final details of the reasons for refusal.

An objector and the applicant spoke on this application.

It was moved by Councillor R Allen, seconded by Councillor Smith and

RESOLVED –

- (i) Permission be refused for the reasons contained in the officer's report;
- (ii) Authority be delegated to the Planning Manager to determine the final details of the reasons for refusal.

**216. 22/00845/REM - Land south east of 47 Wykin Lane, Stoke Golding**

Application for reserved matters of outline planning permission 19/01324/OUT residential development of up to 55 dwellings (outline – access only).

During presentation of the application the recommendation was amended to request an additional condition removing permitted development rights (with regard to extensions and dormer windows) from proposed dwellings abutting existing neighbouring gardens.

The applicant and a representative of the parish council spoke on this application.

It was moved by Councillor Bray, seconded by Councillor R Allen and

RESOLVED –

- (i) Permission be granted subject to the conditions contained in the officer's report and an additional condition removing permitted development rights;
- (ii) The Planning Manager be granted delegated authority to determine the final details of the conditions.

**217. Appeals progress**

Members received an update on appeals.

(The Meeting closed at 8.45 pm)

---

CHAIRMAN

This page is intentionally left blank



Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager (Development Management)

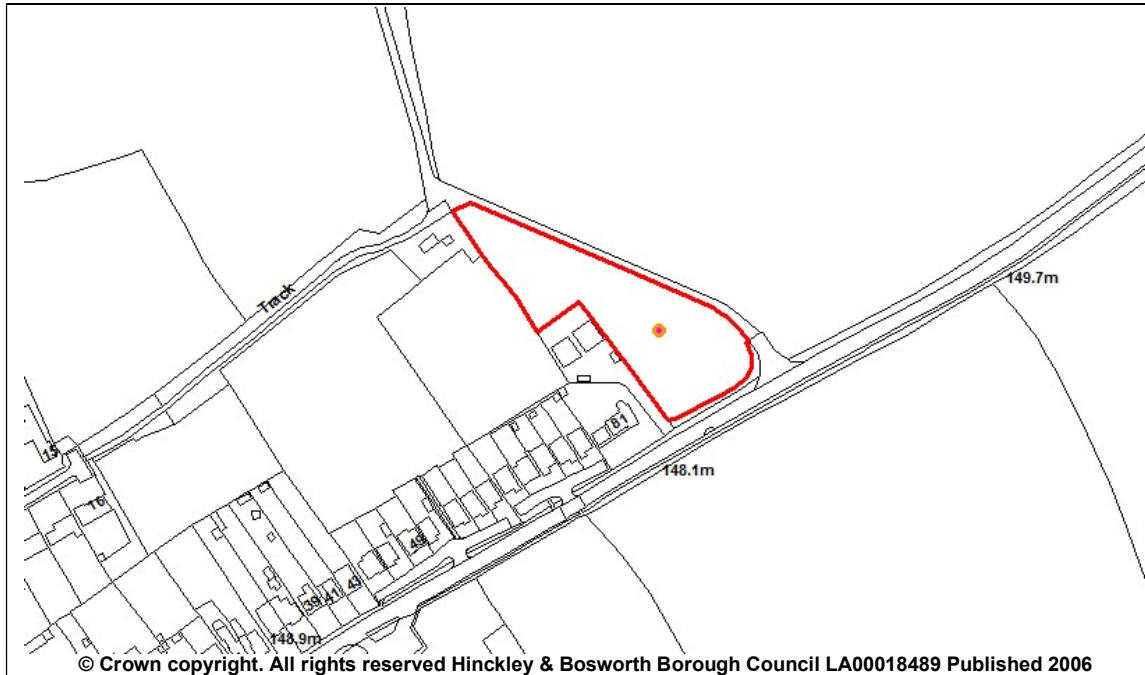
Planning Ref: 22/00302/OUT  
Applicant: Mr J Dawson  
Ward: Barlestone, Nailstone And Osbaston



Hinckley & Bosworth  
Borough Council

Site: Land North East Of, 85 Bagworth Road, Nailstone, Coalville

Proposal: Proposed erection of 9no. dwellinghouses (Outline Application - All Matters Reserved)



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- S106 Agreement to secure off site open space contributions and associated maintenance costs

**Off Site Provision total = £8,038.26**

**Maintenance total = £6,217.20**

## 2. Planning application description

2.1. The application seeks outline planning permission for the development of up to 9 detached dwellings. All matters (access, appearance, landscape, layout and scale) are reserved at this stage.

2.2. A number of amendments and further information has been received since initial receipt of the application. A full re-consultation has been carried out in order for consultees to be provided with the opportunity to revise any comments they made previously. The original application sought outline permission for up to 9 dwellings over 0.5 hectares. The revised application has reduced the site area to 0.49

hectares. No affordable housing provision is now proposed as a result of the reduced area as it lies below the threshold requirement.

### **3. Description of the site and surrounding area**

- 3.1. The application site is situated on land off Bagworth Road which lies to the eastern side of the village adjacent to but outside of the settlement boundary, within open countryside. The land to which the revised application relates is currently a small paddock which is fenced off and amounts to around 0.49ha in area approximately. The site fronts the highway with an existing access off Bagworth Road.
- 3.2. Housing adjoins the site to the west, Bagworth Road forms the southern boundary and agricultural land /open countryside lies to the north and east.
- 3.3. The indicative plans show that 4 dwellings would potentially front onto Bagworth Road and an access point is indicated to be provided for the remaining dwellings which are to be situated to the side/rear of the site.
- 3.4. The site is not located within the Nailstone Conservation Area. The site is entirely within zone 1 of the Environment Agency's flood mapping (land at lowest risk of flooding).

### **4. Relevant planning history**

#### **12/00964/FUL**

- Erection of Farmhouse, agricultural buildings and new access
- Planning Permission
- 06.03.2013

### **5. Publicity**

- 5.1. The application has been publicised by a site notice in close proximity to the site and sending out letters to local residents.
- 5.2. One letter of support has been received which states the following:
- 1) Good use of land central to the village.
  - 2) The school is well below capacity so more housing is well suited in this area to bring more children into the village.
- 5.3. Nine separate letters of objection have been received which state the following:
- 1) It is a greenfield site and agricultural land.
  - 2) Too many large greenfield areas of the Borough have been lost to housing, warehousing, solar farms and forestry.
  - 3) Climate change, world unrest and soaring petrochemical prices suggest that home farmed food produced by sustainable methods are increasingly important to the economy.
  - 4) It is outside the village envelope.
  - 5) It is adjacent to existing housing but would set a precedent for indefinitely extending the village and render village boundaries meaningless.
  - 6) Issues with the stated justification for the development of market housing:
    - a). Aldi site will provide 750 jobs. Only very few employees will have a salary to support the purchase of £350,000 + housing or want to move to the area.
    - b). School not full. It was extended recently to cater for not just Nailstone but also for children from housing developments in the surrounding villages.

c) Cycling is not safe for the general cyclist. Nailstone is a hilltop settlement and the approach roads are narrow, busy with cars and lorries and have significant inclines

d) Car travel is the norm for Nailstone residents and their visitors. The bus stop is one mile from the development and therefore unlikely to be of use. The Leicester bus is being scrapped in April 2022 and the hourly Hinckley - Coalville bus only functions up to the early evening.

- 7) Nailstone is traditionally an agricultural village and this development would further erode this identity and destroy open pasture land.
- 8) The village does not have any facilities to support more dwellings. There is no shop, no pub and no community building other than the church.
- 9) Access from main road was granted for farm use. To use it now for housing implies deceit as it was never used for farm traffic.
- 10) Another development site was granted in 2018 (18/01288/FUL) for 6 dwellings. In the 4 years the permission has been granted the construction has not been started. From this I can assume there is no commercial gain to be made from the site as there is little demand for these dwellings in the village. To grant permission for an additional 9 when 6 have not been built seems wrong.
- 11) Nailstone has been reclassified as a hamlet and this application exceeds the allotted requirement for new housing within the village.
- 12) The scheme is in direct contravention with the current and new Local Plan for the village and is badly planned given the absence of amenities or public transport in the area.
- 13) Nailstone falls within a Conservation Area. As such the proposed development will be detrimental to the area and local wildlife and it fails to meet the necessary material considerations required for the development to succeed.
- 14) The loss of the paddock would have an adverse effect on the beauty and landscape of Nailstone. It will result in the loss of countryside and have a detrimental effect on native vegetation.
- 15) In the proposed 2021 Local Plan the village has 12 allocated houses to be built during 2020-2039. It is also recommended that Nailstone should be downgraded from a Rural Village to a Rural Hamlet due to its lack of amenities; therefore, there is no expectation for new housing within, or outside, the village boundary.
- 16) The proposed development of houses earmarked for Bagworth Road represents an opportunistic application aimed to take advantage of the village's commitment. The lack of appropriate design planning is evident given this land is wholly insufficient for nine houses.
- 17) The applicant argues the proposed development falls within walking distance of the Nailstone colliery development, however due to the absence of pavements walking is not a safe or feasible option. The argument is flawed and fails to justify strong links to employment opportunities.
- 18) The development would dominate nearby buildings. Visually damaging in the landscape setting. It would be inconvenient and hazardous for pedestrians to cross a speeding road.
- 19) There is very much a consensus in the village that Bagworth Road has a significant amount of speeding traffic. Recent traffic surveys will show traffic movements and recorded speeds, personally I would be surprised if the highest recorded speed is less than 65 mph.

- 20) I believe that the development would not be connected to the mains sewer due to distance and cost and therefore believe that local houses would suffer significant disturbance from smells of effluent.
- 21) There would be an impact on personal visual amenity and loss of privacy. Noise, light, pollution and disturbance.
- 22) There are currently no facilities in the village of Nailstone i.e. shops, the recent bus service has stopped. Although the local pub has planning, there is no evidence of any current development alterations or being open at this time contrary to the applicant's application.
- 23) The applicant argues the planning application to improve The Bulls Head (ref: 18/01288/FUL) is proof of a village amenity in support of the proposed development. This application has now been withdrawn and is therefore irrelevant. There are no amenities within the village to support new housing growth.
- 24) The applicant argues the proposed development falls within walking distance of the Nailstone colliery development, however due to the absence of well-lit and pavements accessible to those with difficulties or disabilities, walking is not a safe or feasible option, certainly not during the hours of darkness. The argument is flawed and fails to justify strong links to employment opportunities.

## **6. Consultation**

6.1. No objection has been received from:

- HBBC ES Pollution
- HBBC Drainage (subject to a condition)
- HBBC Waste Management (Condition on bin storage and collection required)
- LCC Archaeology (subject to a condition)
- LCC Highways (subject to an offsite pedestrian crossing condition and a construction management plan condition)

6.2. LCC Ecology - An ecology survey (which should cover habitats and badgers) has not been provided. A biodiversity net-gain assessment using DEFRA 3.0 metric and a Biodiversity impact assessment and enhancement plan is needed, to demonstrate that the development is in overall net-gain, in accordance with the NPPF policy. The habitat survey is needed to provide baseline data for the metric. On-site enhancements should be prioritised, in line with the NPPF policy.

Further comments from LCC Ecology received 25 October 2022 - The ecologist has made the changes I recommended, and has also contacted me to discuss further, which prompted a useful discussion about some aspects of the metric. The development is perfectly acceptable in principle. Losses are minor, but so are the claimed on-site gains, and I do feel these have been exaggerated. An alternative, therefore, may be to condition the full BNG plan.

6.3. Affordable Housing Officer – This is an outline planning application for 9 homes at Bagworth Road Nailstone. Policy set out in the Core Strategy, policy 15, states that sites of 4 dwellings or more, or 0.13 hectares or more in rural settlements, require 40% of the housing to be offered for affordable housing. Whilst this site does not cross the threshold in terms of number of dwellings, the site is described as 0.5 hectares in size and therefore requires an affordable housing contribution to be made. To be policy compliant, a 20% contribution on 9 units would give 1.6 units, rounded up to 2 dwellings.

Since the Core Strategy was adopted there have been changes introduced nationally which affect the delivery of on-site affordable housing. The thresholds for rural affordable housing delivery in the Core Strategy have been superseded by the National Planning Policy Framework (NPPF) 2021, which states affordable housing should only be sought on major developments. The glossary to the 2021 NPPF defines major development for housing as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The site at Bagworth Road is described as 0.5 hectares, and therefore crosses the site size threshold for delivery of affordable housing. To be policy compliant, a 40% contribution on 9 units would give 3.6 units, rounded up to 4 dwellings. The NPPF requires 10% of all homes on qualifying sites to be for affordable home ownership. Subsequent to this guidance, the NPPF also introduced a new affordable home ownership product called First Homes. On qualifying sites, 25% of all affordable housing should be for First Homes. Due to the small number of affordable homes required, it is difficult to divide the units into different tenure types. The overriding need for affordable housing in the Borough is for rented housing, usually delivered as affordable rent. This would therefore be the preference for affordable housing delivery on site, but to be compliant with national policy, one unit should be for First Homes which would fulfil the need for 25% of affordable housing to be for First Homes, and 10% of housing on site to be for affordable home ownership. On 6.10.22 there are the following number of live applications for rented housing in Nailstone on the Council's housing register: Bedroom size Number of applicants with a Borough Connection:

1 bed 103  
2 bed 55  
3 beds 43  
4 or more beds 12  
Total 213

The greatest need within the Borough for all affordable tenures is for smaller homes, and the preference would be for the affordable housing to be delivered as 2 bed roomed 4 person houses. Affordable rented homes should have a requirement that allocation would be to people with a connection to the parish of Nailstone, and failing any applicants with this connection, a connection to the borough of Hinckley and Bosworth, as defined in the council's Housing Allocations Policy.

No further response received from the Housing Officer subsequent to the submission of amended plans.

- 6.4. Nailstone Parish Council – Objection. The site is relative to a previous application for a farm 12/00964/FUL and the junction was “over engineered” in order to provide access to farm machinery. Visibility splays are inadequate for the speed and there have been a number of accidents less than 500m from the junction. The highway officers require more detailed scale drawings in order to make recommendations. The connection with the current traffic calming measures are undetermined and we suspect safety audits will reveal this effectiveness.
- Ecology surveys are required by the county ecologist and this is absent from the application and there is an absence of a 10% net gain biodiversity measure. Given the footprint and potential semi improving status of the site, I would expect further adjacent land would need to be included under a unilateral undertaking to balance the ecology net gain.
- The application claims enterprise support to the ALDI distribution hub, connection with the undersubscribed Dove Bank Primary school. The application is for outline consent only and all matters are reserved which means the principle of planning is

being sought not the delivery of the proposed scheme. The DAS states that Nailstone has been incorrectly categorised as a rural hamlet due to: “assessment of the village in the Settlement Hierarchy Review document where the major employment allocation at Nailstone colliery with 750 jobs was not taken into account. In addition, the village pub due to reopen after refurbishment this summer; the community use of the school and church; the existing playing field and the county park also on the former colliery site were not included in the assessment of Nailstone.”

In essence the applicant’s agent is suggesting Nailstone should remain a rural village where it would be suitable for 40 plus homes rather than 8. Until the local plan has been approved the validity of village status remains undetermined and exposed. Under the terms of proposed local plan 2020-2039 Reg 19, Nailstone has been categorised as a Rural Hamlet which “The Local Plan does not specifically allocate land for housing in Rural Hamlets as these are generally not considered as sustainable locations for further planned growth during the Plan period.” Whilst the categorisation of Nailstone as a Rural Hamlet is “strongly argued” by applicant’s agent, since the application was validated we have lost the support of a publican, the bus service has been cancelled and the application for one of the largest solar farms in the UK has disrupted the village vision. The scheme is strategically presented one under the thresholds for affordable homes therefore it avoids significant obligations under 106. The village is unsuitable for affordable homes due to lack of infrastructure, services and public transport, therefore the affordable homes would be an offsite contribution anyway. The scheme benefits from an existing approved entrance, all be it over engineered for its new purpose, safety audits will prove its viability. The site is outside the village boundary however is on the fringe therefore under sustainable development plans it may be considered, however as a Hamlet it has a different view.

The plan fails to align with the ribbon development master planning of the village and cuts into green space purposefully creating a natural infill for future homes. The tilted balance towards the village is absent, perhaps consideration could be met through offering public open space, allotments, etc. The central section could be offered under a unilateral undertaking for bio diversity net gain. There are a number of documents absent from the application that need to be provided prior to the application being determined, namely the ecology and traffic safety audits.

## **7. Policy**

### **7.1. Core Strategy (2009)**

- Policy 12: Rural Villages
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

### **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 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) (2021)
  - Planning Practice Guidance (PPG)
  - National Design Guide (2019)
- 7.4. Other relevant guidance
- Good Design Guide (2020)
  - Leicestershire Highway Design Guidance
- 8. Appraisal**
- 8.1. Key Issues
- Principle of development
  - Impact on archaeology
  - Design and impact upon the character of the area
  - Impact upon neighbouring residential amenity
  - Impact upon highway safety
  - Flood risk and drainage
  - Ecology
  - Contamination
  - Planning Obligations
  - Planning Balance
- Principle of development
- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up to date plan, permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). 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. Nailstone is identified within the Core Strategy as a Rural Village. Policy 12 of the CS states that in Nailstone the Council will allocate land for the development of a minimum of 20 new homes. The number, type and mix of housing proposed will meet the needs of Nailstone and in line with Policies 15 and 16 of the CS.
- 8.4. The Emerging Local Plan for 2020-39 has been out for consultation at Regulation 19 draft stage (February to March 2022). The LDS anticipates that the Plan will be submitted in due course, and an estimated date for examination of late Winter

2022/23. This will increase the weight to be afforded to the new Local Plan. In the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, Nailstone falls short of the level of provision of services and currently it is concluded that Nailstone be revised from a Rural Village to a Rural Hamlet in the 2020-2039 Local Plan. This change is yet to be approved/adopted and so does not carry significant weight at this moment in time.

- 8.5. It is noted that the southern part of the proposed site has been submitted as a SHELAA site with reference LPR14 for the consideration of it being allocated in the Replacement Local Plan as a housing allocation. The SHELAA assessment concludes that the site is suitable, available and achievable at the time of assessment based on the criteria set out within HBBC's SHELAA Methodology Paper (September 2020). However, the site is not proposed to be allocated for development in the Replacement Local Plan. The Planning Policy team have received further site submissions on the proposed development site. However, the assessments are not publicly available yet. Therefore, there aren't any updated assessments that can be shared before the submission of the updated SHELAA.
- 8.6. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.7. The application lies adjacent to but outside the settlement boundary of Nailstone within open countryside. Policy DM4 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 Policy DM4 as sustainable development. The purpose of Policy DM4 is to protect the open character and landscape character of the countryside. As such, the proposal conflicts with Policy DM4 of the SADMP. However, it is to be applied flexibly due to the date of the Local Plan and the out-of date housing figures. Policy DM4 is consistent with paragraph 174b of the NPPF, which provides that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. As such conflict with Policy DM4 does carry weight as it is consistent with the up to date Framework (NPPF).
- 8.9. As the Borough Council cannot currently demonstrate a five-year supply of housing, the presumption in favour of sustainable development needs to be considered. The three objectives to achieving sustainable development are identified as economic, social and environmental.
- 8.10. Nailstone has a limited number of services as highlighted in the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, which are a primary school, a place of worship and a bus service categorised as reasonable at the time of assessment. Due to the lack of services it is considered that Nailstone is relying on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. However, in recent months, the local pub has come back into use which may affect Nailstone's place in the settlement hierarchy.
- 8.11. The site is entirely within zone 1 (low risk) of the Environment Agency's flood mapping and details have been provided in respect of biodiversity net gain for the site. The site is not located within a landscape sensitivity area.

#### Impact on Archaeology

- 8.12. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate assessment detailing the significance of any affected asset. Paragraph 194 of the NPPF reiterates this advice.
- 8.13. The site lies within an area of archaeological interest. Trial trench evaluation in 2012 identified two ditches of Iron Age date c.300m to the north of the application area. Roman finds have also been discovered c.130m south-east and c.250m and south-west of the site. As the site does not appear to have undergone any significant previous ground disturbance, any archaeological remains that are present here are likely to be relatively well preserved and close to the ground surface.
- 8.14. While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme. NPPF paragraph 205, states that Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
- 8.15. Subject to an appropriately worded condition, the application is considered to be acceptable and in accordance with Policy DM13 of the SADMP and Section 16 of the NPPF in relation archaeology matters.

#### Design and impact upon the character of the area

- 8.16. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.17. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.18. The Council's Good Design Guide (2019) identifies design objectives for Nailstone . These objectives seek to protect the setting of the farm buildings on the periphery, protect the open landscape views where they exist and limit modern domestic forms, protect the setting of the church including open space of the churchyard, boundary treatments and large garden space on Church Road and ensure development in the historic core avoids overtly generic domestic forms. This site is not located within the historic core of Nailstone but is on the periphery of the village outside of the settlement boundary.
- 8.19. This application site falls within landscape character area 'J' Barton Village Farmlands. This character area is located centrally in the north of the Borough to the east of the more wooded landscape of Gopsall Parkland and slightly elevated above Bosworth Parkland to the south. The western boundary is formed by the Ashby Canal and the eastern boundary by the A447 and B582 which mark a transition to higher ground of the Charnwood Fringe Hills to the east. The northern part of this character area lies within the National Forest. The application site is not located in a landscape sensitivity area.
- 8.20. Nailstone is a former Gopsall estate village which retains a historic street pattern and strong sense of local identity related to the estate and village community which can still be seen in the historic buildings, green space and rich townscape features such as characteristic eyebrow dormer windows. Despite housing mine-workers for the nearby mine in the mid-19th century, it has retained a rural character and relationship to its agricultural origins with many surviving historic farmhouses and traditional farmhouse layouts.
- 8.21. The character and landscape strategy for this part of the Borough includes:
- Supporting the vision of the National Forest Strategy – by planting native and mixed-species woodland as well as for areas beyond the National Forest boundary
  - Connecting and enhancing habitats such as hedgerows, tree planting, farm woodlands and lowland meadows.
  - Respecting and enhancing the strong character of the villages, ensuring new development complements existing context with regards to scale, form, materials and boundary features.
  - Maintaining rural views including to church spires and towers and the rural setting.
  - Maintaining and enhancing the recreational assets including rights of way network and canal.

- Conserving the enclosed small-scale field pattern by protecting and enhancing the hedgerow network and hedgerow trees and conserve extant areas of ridge and furrow.
- 8.22. This is an outline application where all matters reserved for future consideration. As such details about scale and design are limited. The application details suggest 9 detached dwellings. Four units would front onto Bagworth Road and are indicated to be two storey in scale with 1.5 dormer style dwellings and a single storey dwelling/bungalow proposed to the rear of the site facing out onto open countryside. Landscaping and quality of design will be critical to ensure that the proposal complements its rural location and the prevailing character of Bagworth Road.
- 8.23. The application details state that each property would be provided with 2 parking spaces per dwelling. The housing mix has not been provided but the indicative plans indicate that the dwellings would be larger family homes. No affordable housing is proposed on site due to the reduction in size area and because the proposed scheme comprises less than 10 dwellings.
- 8.24. The Council's waste team have commented on the proposals and note that all recycling and refuse services take place from the adopted highway boundary. If all or part of the new road to the new properties is to be private (unadopted) then consideration will need to be given to adequate and safe collection point space at the adopted highway boundary for the placement of all the containers on collection day (up to 2 bins per property at one time). It will be the responsibility of the occupiers to ensure that all containers/wheeled bins will be brought to the collection point. This is a detailed matter which will need to be fully explored as part of the layout and appearance of the development at the reserved matters stage.
- 8.25. Overall, it will be key in this instance to ensure that any future reserved matters application makes reference to the landscape character area set out above and seeks to comply with the character/landscape strategy and design objectives for Nailstone as set out within the Council's Design Guide. This should heavily influence the appearance, scale and proposed landscaping details of the development for any future reserved matters application.
- Impact upon neighbouring residential amenity
- 8.26. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 8.27. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.28. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural

environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

- 8.29. As set out throughout the report because this is an outline application with all matters reserved there are limited details on the specifics of the development. However, it is clear from the site location and illustrative block plans provided that the provision of up to 9 dwellings in this location would be acceptable with respect to residential amenity considerations for future occupiers of the dwellings and also the nearest neighbouring properties with respect to privacy, outlook and access to light. The plans indicate suitable separation distances between properties and good rear garden sizes. Any boundary treatments proposed would need to protect privacy but due to the siting of the development outside of the settlement boundary it is recommended that landscaping is used as the key boundary treatment of choice in order to help soften the edges of the development and remain in keeping with the character and appearance of the countryside.
- 8.30. In order to help aid the issues associated with construction noise and protect residential amenity for nearby residents it is considered appropriate to impose a hours of construction condition to ensure appropriate working times.
- 8.31. Overall, it is considered that a suitable scheme could be delivered on this site that would be acceptable in residential amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.
- Impact upon highway safety
- 8.32. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.33. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.34. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.35. The site is to be accessed off Bagworth Road, a C classified road subject to a 30mph speed limit. The local highway authority notes that the access design appears to be over engineered for the quantum of development proposed. Nevertheless, it is acknowledged that farm vehicles may also share the access. The existing access was granted planning permission as part of application 12/00964/FUL. It is noted that visibility splays of 2.4 x 120m to the southwest and 2.4 x 160m to the northeast were accepted by the LHA as part of that application, at a time when the speed limit was the national speed limit, the 30mph speed limit was situated closer to the village and the existing priority build out was not in place. The LHA requires the applicant to demonstrate that appropriate visibility is still achievable as part of any future application for the access.

- 8.36. The local highway authority in their initial consultation response stated that the application as submitted did not fully assess the highway impact of the proposed development and further information was required. Specifically they requested details of an offsite uncontrolled pedestrian crossing point from the site to the opposite side of the road to include details of dropped kerbs and a 2.0m wide footway from the site to the proposed crossing point. The applicant was asked to submit further information in respect of the highway comments received but they stated that access is not a detailed matter at this stage and would be dealt with through the submission of a reserved matters application.
- 8.37. The local highway authority have subsequently through re-consultation raised no objections subject to conditions requiring the provision of an offsite pedestrian crossing and the submission of a Construction Management Plan (as a condition).
- 8.38. The local highway authority are satisfied with the indicative parking provision shown for each dwelling (2 spaces per dwelling). This is considered to be acceptable and in accordance with development plan policy.
- 8.39. The Parish Council has raised concerns about the scheme in highway safety terms and local objection has also been received in relation to this matter. It is to be emphasised that this application is in outline form only with all matters including access to be determined at the reserved matters stage. The local highway authority have stated that given the limited scale of the proposals (9 dwellings) it is considered that the development would not exacerbate highway safety.
- 8.40. It is considered that an appropriate offsite pedestrian crossing can be delivered in this location and these highway works can be requested as a Grampian condition and details are recommended to come forward as part of the access details for any future reserved matters application. The agent has agreed to the conditions requested by the local highway authority.

#### Flood Risk and Drainage

- 8.41. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.42. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.43. The site is located within flood zone 1 (land at lowest probability of flooding). The HBBC Drainage Officer has raised no objections to the proposals subject to a condition relating to surface water drainage details and the incorporation of SuDS. With this condition imposed it is considered that the proposed development is acceptable with respect to flood risk and drainage and will satisfy Policy DM7 of the SADMP and the NPPF.

#### Ecology

- 8.44. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation and ecological value. The application submission was supported by an ecological assessment and concludes

that the proposal would not have an adverse impact upon the natural environment. The county ecologist has been consulted on the application and is satisfied with the content of the report. It is to be noted that landscaping is not a detailed matter for consideration at this stage and will form part of a future reserved matters application.

- 8.45. The Ecology Officer has been consulted on the application and initially requested further details relating to biodiversity net gain and metric calculations. Further information has been provided by the applicant. The re-consultation response from Ecology states that:

*'Having considered these more and discussed with my colleague, I feel there are still some issues with this metric and with the interpretation of the 'rules' covering use of BNG. I do acknowledge that these rules are complicated, and are not always clear in the User Guide; it is sometimes a matter for interpretation. I do not know what the effect of any further changes will be – but I do need to flag up where I think metrics are being filled in incorrectly, or where there is a suggestion that the content is being tweaked to enable a positive metric score. I will have to defer to you on whether you want to take this further; the changes I feel are needed may not make a big difference to the 'score', and the development is perfectly acceptable in principle. Losses are minor, but so are the claimed on-site gains, and I do feel these have been exaggerated. Also – this is an outline application. My questions relate to the claimed on-site gains, post-development. DEFRA guidance, such as it is, is that the applicants only need to submit 'core biodiversity gains information' with their planning application, and not a full metric. Their description of this is... ". This is not as comprehensive as a complete biodiversity gain plan, which will not be required at this stage, in recognition of certain circumstances where details of landscaping are not fully developed or where the detail of biodiversity gain plans are contingent on other matters, such as site investigation works.*

*• the pre-development biodiversity value,  
• steps taken to minimise adverse biodiversity impacts,  
• the proposed approach to enhancing biodiversity on-site, and  
• any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development."*  
*An alternative, therefore, may be to condition the full BNG plan'.*

- 8.46. It is considered that given this is an outline application and there is no in principle objection from Ecology that a suitably worded condition will provide the necessary information required to ensure that the site delivers on the provision of Biodiversity Net Gain. Therefore, subject to a condition to secure Biodiversity Net Gain measures, the proposal accords with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

#### Contamination

- 8.47. Policy DM7 of the SADMP states that development proposals must demonstrate appropriate remediation of contaminated land in line with minimum standards. The revised NPPF at paragraphs 183 and 184 sets out policies on development involving contaminated land. The planning practice guidance also offers detailed government advice on this topic
- 8.48. HBBC Environmental Services Team have been consulted on the proposals and do not raise objections nor do they request conditions in relation to contaminated land. It is considered that the application is acceptable and in accordance with development plan policy with respect to contamination issues.

#### Planning Obligations

- 8.49. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the 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. The study states that there is a deficiency in the provision of all types open space within Nailstone with the exception of Children's play space which only just meets the requirement.
- 8.50. 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 and paragraph 57 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.
- 8.51. The Open Space and Recreation Study 2016 states that with the exception of children's play space all of the open space typologies fall below recommended quantity standard. Off site open space contributions have therefore been calculated and requested by the Council and accepted by the applicant for the following types of open space:
- Equipped Children's Play Space  
off site provision = £5,894.53 and  
maintenance = £2,844.72
- Casual/Informal Play Spaces  
off site provision = £671.33 and  
maintenance = £816.48
- Accessibility Natural Green Space  
off site provision = £1,472.40 and  
maintenance = £2,556.00
- Off site Open Space Provision total = £8,038.26**  
**Maintenance total = £6,217.20**
- Planning Balance
- 8.52. 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.
- 8.53. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Therefore the Council does not have a 5 year housing land supply.
- 8.54. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

8.55. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.

8.56. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.57. The proposal conflicts with Policy DM4 as the application lies adjacent to but outside the settlement boundary of Nailstone and is therefore within open countryside. The site does not fall under any of the categories identified in Policy DM4 as sustainable development. However, the purpose of Policy DM4 is to protect the open character and landscape character of the countryside and where the tilted balance is applicable planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits of the scheme. The application site is not located in a landscape sensitivity area and ecology have not objected subject to a Biodiversity Net Gain Condition. Access, appearance, landscape, layout and scale are all reserved matters in this case for future consideration.

8.58. Nailstone has a limited number of services as highlighted in the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, which are a primary school, a place of worship and a bus service categorised as reasonable at the time of assessment. Due to the lack of services it is considered that Nailstone is relying on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. However, in recent months, the local pub has come back into use which may affect Nailstone’s place in the settlement hierarchy.

8.59. Overall, taking all of the above issues/material considerations into account it is not considered that there are significant adverse impacts as a result of this scheme which would outweigh the benefit of providing 9 dwellings in addition to the open space contributions to help address the shortfalls identified for Nailstone. Therefore, subject to suitably worded conditions, details to address the highway issues raised and a legal agreement to secure the off site open space contributions the application is recommended to Members for approval.

## **9. Equality implications**

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



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.

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. Recommendation**

10.1 **Grant planning permission** subject to the following planning conditions and the signing of Section 106 Agreement to secure off site open space contributions and associated maintenance costs.

### **Conditions and Reasons**

1. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

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

2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
  - a) Access including the accessibility to and within a site for vehicles, cycles and pedestrians. The positioning, treatment and circulation of routes and how these fit into the surrounding access network and details of the required pedestrian crossing.
  - b) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes.
  - c) 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 to include native species mix hedgerows

- d) Layout of the site including the location of electric vehicle charging points, bin storage and collection points, the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes.
- e) Scale of each building proposed in relation to its surroundings

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

- 3. The development hereby permitted shall be for the erection of no more than 9 dwellings on the land outlined red shown on the Location Plan of revised Outline Planning Proposals Drawing 22\_4130\_02B received 1 Nov 2022.

**Reason:** To define the permission.

- 4. Development shall not begin until off site highway works for the provision of a pedestrian crossing has been fully implemented in accordance with approved highway details which shall first have been submitted to and approved in writing by the local planning authority at the reserved matters stage. The highway details need to include details of dropped kerbs and a 2.0m wide footway from the site to the proposed crossing point.

**Reason:** To ensure the development provides for suitable highway safety measures in accordance with DM17 of the Site Allocations and Development Management Policies DPD.

- 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. Site preparation and construction shall be limited to the following hours:

Monday - Friday 07:30 - 18:00

Saturday 08:00 - 13:00

No working on Sundays and Bank Holidays

**Reason:** To protect residential amenity and limit noise disturbance in accordance Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

7. No development shall commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has first 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 mitigation 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, recording, dissemination and archiving in accordance with Policy DM13 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

8. Development shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the Local Planning Authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed

**Reason:** To reduce the possibility of surface water flooding in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021).

9. The development hereby permitted shall not be occupied 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 by the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

**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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Prior to development above slab level a scheme for the installation of electric vehicle charging points will be submitted to and approved in writing by the local planning authority. The scheme shall identify the number of units to benefit from electric charging points, together with full detail of the location and fitting of the units.

**Reason:** To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework.

11. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A – E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby permitted shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

**Reason:** To safeguard the amenities of neighbouring properties and character of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. No development shall take place (including ground works or vegetation clearance) until a Biodiversity Gains Plan has been submitted to and approved in writing by the LPA. This is to be based on the Biodiversity Net Gain Assessment (V2) undertaken by B J Collins Protected Species Surveyors [Aug 2022] and the accompanying baseline metric spreadsheet V2 [25/08/2022] and is to provide net gain on the reported loss. The plan shall include the following details:

- a) Description and location plan of land to be used for off-setting or off-site enhancement;
- b) description and evaluation of the features to be managed/created on site;
- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives
- e) prescriptions for management actions
- f) work schedule
- g) seed mixes/species to be sown/planted
- h) ongoing monitoring and remedial measures
- i) details on the mechanism by which this plan is to be legally secured for a period of 30 years

The plan will be supported by a BNG metric calculation using the latest DEFRA version of the metric. The approved plan will be implemented in accordance with the approved details.

**Reason:** To conserve and enhance features of nature conservation and ecological value in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

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

**Reason:** To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area in accordance with Policies DM10 and DM17 of the Site Allocations and Development Management Policies DPD 2016.

This page is intentionally left blank

Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager

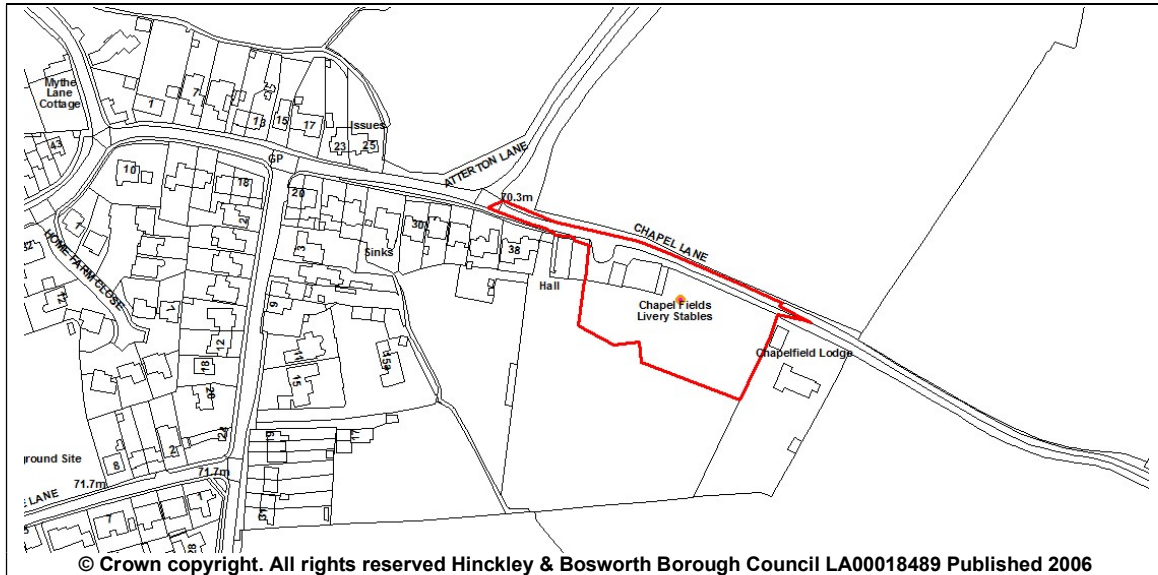
Planning Ref: 21/01305/FUL  
Applicant: A R Cartwright and D Walker  
Ward: Twycross, Sheepy and Witherley



Hinckley & Bosworth  
Borough Council

Site: Chapel Fields Livery Stables, Chapel Lane, Witherley, Atherstone, Leicestershire

**Proposal: The construction of five detached dwellings, with associated garages, parking provision, access and landscaping**



## 1. Recommendations

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

## 2. Planning application description

2.1. The application seeks full planning permission for the erection of five detached two storey dwellings on land at Chapel Lane, Witherley. Plots 1 and 2 have the upper floor within the roof space and each have three bedrooms. Plots 3, 4 and 5 are two storey with plot 3 having four bedrooms and plots 4 and 5 each having five bedrooms. The two smaller dwellings have a garage each with two tandem parking spaces in front of the garage. The three larger dwellings each have a double garage with Plot 3 having two parking spaces in front of the garage and plots 4 and 5 each having four spaces in front of the garage.

2.2. The existing lane in front of the dwellings is to be widened to 4.8 metres and a 2m wide footpath is provided. Properties front on to Chapel Lane and have rear gardens at least 20m in depth. The properties are traditional in design and are faced in brick with pitched tiled roofs with several elements of brick detailing including chimneys. Gardens are separated by 1.8m high close-boarded timber fencing with native species hedging to the rear boundary supplemented by post and rail fencing.

- 2.3. The paddock to the rear of the proposed gardens is predominantly given over to landscaping and providing a biodiversity net gain. An area of land to the rear of the Parish Room is indicated as being set aside for parking/amenity space for the parish but this does not form part of the application and it should be noted cannot be secured via condition or legal agreement as the parking is not considered necessary to make the proposed development acceptable in planning terms. As such it does not fulfil any of the six tests for a valid condition or the CIL tests for requiring planning obligations. The paddock, and land to the rear of the Parish Room, are not within the red line, but are owned by the applicant.
- 2.4. The application is accompanied by the following reports and documents:
- Flood Risk Assessment
  - Landscape and Visual Impact Assessment
  - Transport Assessment
  - SuDS Strategy Report
  - Preliminary Ecological Appraisal
  - Biodiversity Net Gain Assessment
  - Noise Assessment
  - Planning Statement
  - Tree Survey Report

### **3. Description of the site and surrounding area**

- 3.1. The application site covers an area of just under half a hectare and fronts Chapel Lane between the Parish Hall to the west and Chapelfield Lodge to the east. To the north and south is open agricultural land. The dwelling to the east is surrounded by farmland and to the west of the Parish Room is the village of Witherley. Beyond the application site Chapel Lane serves just a handful of properties and is a no through road. The site is generally flat with a small fall to the south and from Chapel Lane there are distant views in all directions, particularly to the south.
- 3.2. A public footpath runs in a north/south direction immediately to the west of the Parish Room through the paddock of which the application site forms part and that is in the ownership of the applicant. One of the current applicants was the owner of the site in 2015 when an application for 10 dwellings was submitted and was also the owner of the site in 1997 when an application for an agricultural building on the site was submitted. As is set out in the submitted Landscape and Visual Impact Assessment the site has the appearance of dereliction and degradation. This description relates predominantly to a small area in the north-west corner where a small block of stables and an open fronted corrugated steel barn still stand although they are much overgrown by vegetation to the point that much of the small previously developed part of the site has blended into the landscape.
- 3.3. The tree survey sets out that there is one category A tree on the site on the site frontage and one category B tree set slightly back from the road frontage close to the Parish Room. There are also a few smaller category C trees. Trees fall within four categories, the highest category, A, being trees of high value and high quality with category U being trees that are unsuitable for retention.
- 3.4. The site lies within the countryside outside of the settlement boundary of Witherley. Part of the western boundary of the site, where it borders the Parish Room, is adjacent to the settlement boundary of the village.



#### **4. Relevant planning history**

4.1. The application site has the following relevant planning history:

##### **15/00441/FUL**

- Erection of 10 dwellings and associated access
- Refused by the Planning Committee
- 11.10.2017

Two reasons for refusal:

1. The proposal would result in unsustainable residential development in the designated countryside outside the settlement boundary of Witherley. The proposal would fail to complement or enhance the intrinsic value, beauty, undeveloped rural character of the countryside and the rural setting of the village. The proposal is therefore contrary to Policy 12 of the Core Strategy (2009) and Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).
2. By virtue of the location, layout and scale, the proposed development would not complement the existing surrounding built form and would adversely impact on the rural character of the countryside and setting of the village. The proposed development would be contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).

A subsequent appeal was dismissed. The Inspector considered that the proposed development would:

- cause demonstrable harm to the character and appearance of the countryside and landscape, contrary to Policies DM4 and DM10
- result in a significant adverse effect on the amenity of future occupiers due to use of the Parish Room
- conflict with the spatial strategy of the development plan by virtue of its siting within the countryside

#### **5. Publicity**

5.1. Neighbours of four neighbouring properties have been notified of the application. In addition the application has been advertised by means of both site and press notices.

5.2. Representations from 24 households have been received. Of these 17 are objections, six are in support of the application and one neither supports nor objects to the application. The following comments have been made:

- 1) The site on Chapel Lane was identified as the third site of preference in the Neighbourhood Plan. The development is reasonable given Witherley does have amenities to support additional houses
- 2) The site doesn't pose a flood risk
- 3) Chapel Lane is a private, narrow, single track road and can't support this amount of extra traffic
- 4) The dwellings would increase the risk of flooding in the village. The junction of Chapel Lane and Atterton Lane floods regularly
- 5) The village needs more homes, this will benefit the community allowing it to thrive and be more sustainable

- 6) The village needs more low cost housing, it does not need more large 5 bedroom houses
- 7) This is unsustainable development in the designated countryside outside of the settlement boundary
- 8) The development fails to complement or enhance the intrinsic value, beauty, undeveloped rural character of the countryside and its rural setting resulting in significant harm to the character of the site. Given the proximity of the Parish Room the application site contributes significantly to the scenery of the village and emphasises its rural character
- 9) The scheme would have an urbanising effect in views from the public footpath on the approach from the south
- 10) This is contrary to policies DM1, DM4 and DM10 of the Council's Site Allocations and Development Management Policies Development Plan Document and policy 12 of the Core Strategy
- 11) The site is not allocated for development by either the Council or by the Parish in the Neighbourhood Plan
- 12) This would put further strain on the road junctions at Kennel Lane and Bridge Lane with the A5
- 13) The proposed widening of Chapel Lane would fundamentally and unsympathetically alter the character of the rural lane resulting in an urbanising effect
- 14) The development could result in complaints about noise from the Parish Room and is likely to result in a significant reduction in its value as a facility to be enjoyed by the community which is contrary to policy DM10
- 15) The detrimental change to the character of the area would impact upon everyone using the Parish Room
- 16) The scheme would impact on views and vistas to and from the village
- 17) The village sewers are already overloaded
- 18) The reasons why the Inspector dismissed the previous appeal still stand
- 19) The site does not currently have an urban fringe character, contrary to what the submitted Landscape and Visual Impact assessment states
- 20) Even with the proposed road widening there is no room for visitor parking or for delivery vans to park and turn
- 21) There is a pinch point at the Parish Room and the increased traffic would make it unsafe for pedestrians exiting the hall
- 22) The Highways Agency (now National Highways) has previously stated that they will not support any housing development in Witherley until improvements have been made to the two access points into the village from the A5. Those improvements have not taken place and the level of traffic on the A5 has increased since
- 23) Parking associated with the Parish Room has in the past caused problems with access to the kennels and the farm at the end of the lane – this will just make matters worse
- 24) Chapel Lane is not subject to the 30mph speed limit
- 25) Chapel Lane is the only access to Drayton Barn Farm which is where an 800 acre mixed farming enterprise is run from. It is also the only access to the farm's diversification business, the Witherley Kennels and Cattery that serves 60 boarding kennels including a rehoming centre for dogs and 40 cattery pens which can attract up to 100 vehicle movements a day on its own not including farm traffic
- 26) The scheme does not maximise use of sustainable transport modes and so is contrary to paragraph 8c of the NPPF

5.3. The Parochial Church Council, which owns the Parish Room, has also objected to the proposal on the following grounds:

- 1) There are already difficulties for cars manoeuvring in and out of the small car park adjacent to the Parish Room
- 2) The developer does not own the verge on Chapel Lane or the adjacent grass verge – safe pedestrian access to the Parish Room must be maintained
- 3) The current small car park is not sufficient for the number of users and the proposed development will adversely affect the availability of roadside parking
- 4) The Parish Room is used for a variety of events that have involved music/late nights. The noise assessment was undertaken in June 2021 when many activities had not started back up again. The PCC would not wish the future of the hall to be restricted because of its proximity to the proposed houses
- 5) The PCC notes the gift of land adjacent to the Parish Room to be set aside for use as additional parking and/or amenity space and asks that if permission is granted then this is secured via planning condition or S106 obligation

*Officer comment: As set out above the land identified on the plans as additional parking for the Parish Room does not fall within the red line and does not form part of the application and cannot be secured for the reasons set out above at paragraph 2.3.*

## **6. Consultation**

- 6.1. Witherley Parish Council – Objects to the application. The Parish Council considered the application at a public meeting and at its full council meeting in December 2021. Objections and observations are made as follows:
  - Disappointment that the application doesn't reflect the design style specified in the draft Witherley Neighbourhood Plan
  - If permission is granted, then there should be an attenuation pond on the site to deal with surface water; hard surfaces should be minimised; and septic tanks should be provided
  - Policy 12 of the Core Strategy supports development within settlement boundaries that provides a mix of housing types – the Parish Council does not consider that this scheme complies with that policy
  - Policy 12 also identifies that the Borough Council has stated that land will only be allocated for limited housing development in Witherley if the identified problems at the Kennel Lane/A5 junction are overcome
  - The response from the Parish Council then lists comments made at the public meeting all of which are listed above in Section 5 of this report
- 6.2. National Highways – no comment to make on the proposal.
- 6.3. Severn Trent Water – foul and surface water connections are proposed to the public combined water sewer. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.
- 6.4. Leicestershire Police – No objections but provides advice.
- 6.5. LCC Highway Authority – The impacts of the proposed development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road safety network would not be severe. Based

on the information provided the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021).

It is noted that only the first 37 metres of Chapel Lane is adopted, and this terminates at the Parish Room. As such, all dwellings access onto a private road. It is noted that the applicant intends to widen the private road to 4.8m adjacent to the site. However, this narrows to 3.7m adjacent to the Parish Hall. It is then the intention of the Applicant to widen the adopted public highway.

The Applicant is also proposing a 2m wide footway to the front of the site where it meets the private road. This is welcomed. A scheme for street lighting is also provided within the Transport Statement. The Applicant is also proposing a scheme of white lining adjacent to the Parish Hall to reinforce that the road narrows. Whilst the majority of this will be within the private road it is partly shown within the highway.

The amount of parking, size of spaces and size of garages are all in accordance with the Leicestershire Highways Design Guide. A standard condition regarding the provision of the highway works and parking spaces is required.

- 6.6. LCC Ecology – Reports regarding great crested newts and bats have been submitted and are satisfactory. No conditions or mitigation is required. The ecology survey was carried out immediately after the grassland was cut and a further botanical survey should be undertaken at the optimal time of year (between May and September), in order to accurately assess the quality of grassland and inform net gain calculations. The proposed development will result in significant removal of habitats, including grassland. The Biodiversity Net Gain Assessment submitted states that a net gain calculation has been produced but the details are required before an informed comment can be made. In addition a biodiversity improvement plan is required in order to show how any losses will be met and a plan showing where any habitat creation will take place.

*Officer comment: The additional information required has been submitted and while there is a net loss in biodiversity on the site itself the remainder of the field is in the ownership of the applicant and additional habitat creation could be secured via condition in order to achieve a biodiversity net gain.*

- 6.7. LCC Archaeology – A condition requiring A programme of archaeological work is required prior to any development, including demolition, taking place.
- 6.8. HBBC Waste – No objections subject to a condition regarding waste and recycling storage and collection.
- 6.9. HBBC Affordable Housing – Guidance in the NPPF supersedes Policy 15 of the Core Strategy which included a requirement for 40% affordable housing to be provided on sites of 4 dwellings or more or 0.13 hectares or more in rural areas. The NPPF sets out that affordable housing should not be sought for developments fewer than 10 dwellings. As the development is for 5 dwellings, no affordable housing is required.
- 6.10. HBBC Environmental Services – The noise impact assessment recommends that mitigation is provided to protect residents from music noise levels. The report states that “available site test data indicates that the typical sound reduction across a partially open window of a furnished room is approximately 20 decibels for mid-frequencies”. Complaints regarding noise from live music is often related to the low

frequency elements of that noise. A condition regarding noise attenuation is required to protect the proposed dwellings from music at the adjacent Parish Hall and as no time limits are enforceable at the hall, night-time noise should be taken into account. Conditions are also required regarding contamination and hours of construction.

- 6.11. HBBC Arboricultural Officer – The tree survey indicates trees that would need to be removed to facilitate development. These include a 12m high category B tree which the Council should consider as important for retention. Proposed plot 5 is far too close to a category A tree and clarification is required to ascertain if this tree has veteran characteristics.

## **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 12: Rural Village
  - Policy 16: Housing Density, Mix and Design
- 7.2. Site Allocations and Development Management Policies DPD (SADMP) (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM4: Safeguarding the Countryside and Settlement Separation
  - Policy DM6: Enhancement of Biodiversity and Geological Interest
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM10: Development and Design
  - Policy DM13: Preserving the Borough's Archaeology
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
  - Policy DM25: Community Facilities
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
  - Planning Practice Guidance (PPG)
  - National Design Guide (2019)
- 7.5. Other relevant guidance
- Good Design Guide (2020)
  - Highway Design Guide
  - Landscape Character Assessment (2017)
- 7.5. Witherley Neighbourhood Plan was subject to public consultation between 16 September and 4 November and so the consultation period has only recently closed, and representations have not yet been analysed. At this stage the draft Plan only carries limited weight in the decision-making process. As set out in the Neighbourhood Plan there were no residential allocations in Witherley Parish in the SADMP because of development constraints in Witherley itself and because other settlements were categorised at the lower end of the settlement hierarchy and considered not to be sustainable settlements for the purposes of allocating housing sites.
- 7.6. One site is allocated for new housing in the draft Neighbourhood Plan and that is the former hunt kennels on Kennel Lane with is allocated for a total of 15 dwellings comprising a mix of converted buildings and new build houses.

## **8. Appraisal**

8.1. It is considered that the key issues in the determination of this application are:

- Principle of Development
- Design and Impact upon the Character of the Area
- Residential Amenity
- Highway Safety
- Flood Risk and Drainage
- Ecology, Biodiversity and Trees

Principle of Development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

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

8.4. The Emerging Local Plan for 2020-39 has been out for consultation and is at Regulation 19 draft stage (February to March 2022).

8.5. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough Council is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

8.6. Witherley is a rural village within the Borough of Hinckley. The Core Strategy sets out that rural villages have more limited services than key rural centres. A primary school and bus services are considered essential, and a public house is considered desirable. These services are considered key to the functioning of a village as they provide a community 'heart'. Witherley benefits from all three of these services although the bus services are limited. The Draft Neighbourhood Plan sets out at page 9 that the household questionnaire sent to every household in the parish, which includes the rural hamlets of Fenny Drayton and Ratcliffe Culey as well as the even smaller Atterton, identified the lack of public transport, speeding traffic,

lack of pavements, need for a shop, new development, lack of leisure facilities, sewerage problems and flooding as the range of issues facing parishioners.

8.7. Policy 12 of the Core Strategy seeks to support existing services in such villages. It states that housing developments within settlement boundaries will be supported where they provide a mix of housing types and tenures. Specifically regarding Witherley, Policy 12 states that the Borough Council will work with the Highways Agency (now National Highways) to address identified problems with the A5/Kennel Lane junction. It states that if these problems can be overcome, the Council will allocate land for limited housing development.

8.8. As set out above the site lies adjacent to but outside of the settlement boundary for the village. Therefore the site lies within the countryside and Policy DM4 of the SADMP is applicable. 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, 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; or
- It relates to the provision of accommodation for a rural worker; 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

8.7 The proposed development does not fall within any category of sustainable development that is considered acceptable in the countryside. The proposal is not supported by either Policy 12 of the Core Strategy or Policy DM4 of the SADMP. The purpose of Policy DM4 is to protect the intrinsic beauty, open character and landscape character of the countryside. As such, the proposal conflicts with Policy DM4 of the SADMP.

8.8. Although there is clear conflict with the spatial policies of the development plan 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 arising from the conflict with Policy DM4 must therefore be weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case. Other material considerations are set out within the next sections of the report.

#### Design and Impact upon the Character of the Area

8.10. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing,

adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.

- 8.11. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.12. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.13. The application site falls within the large Sense Lowlands landscape character area. Page 59 of the Council's Landscape Character Assessment states that key characteristics of this landscape include flat to gently rolling landscape giving rise to extensive and open views, a well-ordered agricultural landscape featuring low hedgerows and mature hedgerow trees and a rural and tranquil character.
- 8.14. Trees are dealt with in greater detail below but none of the existing trees on the site would be retained. The character of the site and this section of Chapel Lane would be completely transformed, and the rural character of the site and this section of lane would be replaced by a suburban character. The dwellings and garages would form a prominent wall of development in views from Chapel Lane and from the public footpath south of the site as the layout of the site is such that between each of the five houses is a pitched roofed double garage with a gap of just 0.8m between the garage and the dwelling thus forming a near complete wall of built development for a distance of 90 metres.
- 8.15. The submitted LVIA sets out that the site is "an unmanaged and neglected area of poor quality comprising; barns and stables, areas of hardstanding, areas of invaded scrub and poor quality vegetation and generally lacking intact and appropriate enclosing elements. The landscape parcel of the site is chaotic and lacks coherence as a result." However, as has been established the site is in the same ownership now as it was in 2015. Images from Google Streetview show that this description applies to a very small corner of the site immediately around the two buildings on the site.
- 8.16. It is considered reasonable to conclude that the reason the site does not appear in a better condition is a deliberate choice. The site is described in the LVIA as variously "poor quality", "unmanaged", "unkempt", "derelict", "neglected" and "chaotic", in an attempt to promote residential development of the site that in November 2018 an Inspector found to cause "demonstrable harm to the character and appearance of the countryside and landscape through loss of a significant part of the appeal site which is of moderate value to the landscape, to built development."
- 8.17. It is considered that the individual design of the properties is good but little regard has been paid to their context. The design and layout appear more suited to a new large housing estate within a town rather than a site within the countryside on the edge of a rural village. The wall of development that the layout establishes is indicative of the lack of regard to the site context. The scheme is considered to clearly fail the requirement set out in Policy DM10 that development is required to



complement or enhance the character of the surrounding area with regard to scale, layout, density and mass.

- 8.18. The proposed development would have a significantly harmful effect on the character of the site and surrounding area contrary to the requirements of Policy DM10 of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

#### Residential Amenity

- 8.19. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.20. Policy DM25 of the SADMP states that the Council will resist the loss of community facilities.
- 8.21. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.22. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.23. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.24. To the west the development is separated from existing neighbouring property by the Parish Room. To the east the existing dwelling has a substantial hedge to the common boundary and outbuilding adjacent so that the dwelling is effectively screened from the new development. It is considered that the proposed development would have no significant detrimental effect on the amenity of any neighbouring occupiers. The noise report makes no assessment of the estimated impact on the garden to plot 1.
- 8.25. The submitted noise assessment was undertaken during Covid restrictions when no events were taking place. The report states that noise levels from similar establishments were used to generate the report's findings. It is not stated whether those similar establishments had large windows to the side and rear. The report does though state that "it is expected that during larger events at the Parish Room, there is potential for entertainment noise to impact upon the development".
- 8.26. The Council's Environmental Services Team has identified the need for noise mitigation from music at events at the Parish Rooms which is located less than 10 metres from the rear garden of plot 1. The frequency of use of the Parish Room has

been highlighted by the Parochial Church Council. Previously, the Inspector noted that the Parish Room was an important well-used community asset located beyond the continuous built form of the village and surrounded by open countryside on three sides. The Inspector considered that there was currently little scope for noise associated with its use causing annoyance or nuisance to neighbours and noted that there are no planning conditions that restrict its hours of use.

- 8.27. The Parish Room has large windows in its sides and in its front and rear. As a result, noise generated within the building can easily escape, particularly in warmer weather when windows are open or future residents would want to enjoy their private rear gardens. In the absence of any planning restrictions on the hours of use of the Parish Room, well attended social events at the building with music occurring during the day or late into the night would annoy and disturb future occupants of plot 1 at the very least and have a significant adverse effect on their living conditions. Mitigation measures to habitable rooms would fail to deal with noise heard in private rear gardens and, given the short distance involved acoustic fencing would fail to be effective. This is likely to result in restrictions being placed on the use of the Parish Room which would significantly reduce its value as a facility enjoyed by the community, particularly so when the lack of facilities has been identified as an issue facing villages within the parish.
- 8.28. Paragraph 187 of the NPPF states that decisions should ensure that new development can be integrated effectively with existing community facilities and that existing facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Officers consider that the amenity of occupiers of the proposed development would be significantly adversely affected by use of the Parish Room. This would be contrary to Policy DM10 of the SADMP, which amongst other things, seeks to prevent such harm. It would also be contrary to the aims of DM25 of the SADMP which seeks to resist the loss of community facilities.
- 8.29. The proposed development is considered likely to have a significant detrimental effect on the amenity of future occupiers of plot 1 contrary to the requirements of Policy DM10 of the SADMP and the NPPF. Furthermore the proposed development is likely to result in restrictions being placed on the use of the Parish Room which would significantly reduce its value as a facility enjoyed by the community, particularly so when the lack of facilities has been identified as an issue facing villages within the parish, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.

#### Impact upon highway safety

- 8.30. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.31. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.32. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network

would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

- 8.33. The site access is an unadopted lane that accesses two farms, one of which operates a kennels and cattery. Representations have been received from the owners/operators of these farms expressing concern at the proposals. The Local Highway Authority has assessed the application and considers that the proposals meet the requirements of the Leicestershire Highways Design Guide has no objections to the proposed development or to the widening and white lining to Chapel Lane subject to a single standard condition.
- 8.34. Although the LHA has no accident statistics as the lane is unadopted it is considered that while concerns regarding highway safety are legitimate they do not reach the threshold set out at paragraph 111 of the NPPF that there would be an unacceptable impact on highway safety or that the cumulative impacts on the highway network would be severe.
- 8.35. It is not considered that the proposal will have any significant negative impact on the highway network to the extent that refusal or amendment of the application is required. As such the proposal satisfies Policy DM17 and DM10(g) of the SADMP and the NPPF.

#### Flood Risk and Drainage

- 8.36. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.37. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.38. The site lies within Flood Zone 1 of the Environment Agency Flood Maps and is not shown to be at risk from surface water flooding although the field beyond the rear boundary of the proposed gardens is liable to flooding from both rivers and surface water as is the highway to the west of the site as mentioned in comments from residents. Severn Trent raises no objection, and it is considered that given the circumstances surface water drainage can be adequately dealt with via condition should permission be granted. Subject to this condition the development is considered to be acceptable with respect to flooding and surface water runoff issues and satisfies Policy DM7 of the SADMP and the NPPF.

#### Ecology, Biodiversity and Trees

- 8.39. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value. The policy states that on-site features should be retained, buffered and managed favourably.

- 8.40. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services which includes trees. Paragraph 180 states that development resulting in the loss of veteran trees should be refused unless there are wholly exceptional reasons.
- 8.41. The submitted layout shows the single category A tree on the site being retained but Council's Arboricultural Officer has been consulted and has stated that this tree is far too close to the proposed dwelling on plot 5. It is therefore considered that this application will result in ecological impacts that are contrary to the requirements of Policy DM6 of the SADMP and to the requirements of the NPPF.

#### Other Issues

- 8.42. Archaeology – the County considers that the interests of the archaeology of the site can be secured via condition.

#### Planning Balance

- 8.43. 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.
- 8.44. This application relates to the erection of five dwellings on a site within the countryside where just a very small part of the site can be considered previously developed land. The history of the larger site is that an appeal into the refusal of an application for 10 dwellings was dismissed in October 2018. The most recent housing land monitoring statement for the period 2020 -2021 indicates, that the Council cannot demonstrate a 5-year housing land supply. This is also a key material consideration and under these circumstances, the NPPF 2021 sets out, in paragraph 11d) that, for decision makers:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

- 8.45. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”.*
- 8.46. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The degree to which the proposed

development conflicts with Policy DM4 of the SADMP is significant and it is considered that the impact on the character and appearance of the area would be severe given the nature of the site and access currently and the detailed design and layout of the proposed development which would result in the loss of all existing planting on the site and a wall of development fronting an urbanised Chapel Lane.

- 8.47. Paragraph 8 of the NPPF sets out three overarching objectives for sustainable development which are interdependent and need to be pursued in mutually supportive ways.
- 8.48. The scheme would provide economic benefits through the creation of jobs and demand for services during the construction phases and from the future occupation of the development supporting the local economy.
- 8.49. Socially, the scheme would provide a modest contribution towards housing supply within the borough. Car parking for the Parish Room does not form part of the application and cannot be secured via legal agreement as such a provision is not necessary to make the scheme acceptable in planning terms. Any social benefits though are balanced by the impact of noise from the Parish Room on the amenity of future residents and the likely restrictions that would be placed on this important, well-used community facility. It is realistic that the scheme would cause significant harm to the vibrancy of the community, contrary to the social objective of sustainable development contained in the NPPF.
- 8.50. Environmentally, as the site lies within the countryside and is not allocated, there would be conflict with the spatial strategy of the development plan and the NPPF which is clear that the planning system should be genuinely plan led with plans acting as a platform for local people to shape their surroundings. There would be significant harm caused to character and appearance of the countryside and landscape through the proposed uncharacteristically dense frontage development on Chapel Lane which also results in the loss of a category A tree of possible veteran status.
- 8.51. In addition the site is located within a rural area, and this is not a sustainable location. Occupiers of the proposed development would be heavily reliant on the use of private cars for trips to shops, services and work/school as the immediate area has no such facilities. Therefore the proposal is contrary to paragraph 79 of the NPPF which states that housing should be located where it will enhance or maintain the vitality of rural communities.
- 8.52. Having assessed the application it is considered that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the development plan and the NPPF as a whole. Consequently the presumption in favour of development set out within policy DM1 and the NPPF does not apply, and material considerations do not indicate that planning permission should be granted for a scheme that is not in accordance with the development plan.
- 8.53. As such the application is recommended for refusal.

## **9. Equality implications**

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

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.

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. Recommendation**

10.1. **Refuse planning permission for the reasons set out below.**

## **11. Reasons**

1. By virtue of the location of the application site within the open countryside, the proposed scheme would result in unsustainable and unjustified ribbon development of new residential development in the designated countryside beyond the settlement boundary on Chapel Lane outside the rural village of Witherley and the resulting urbanisation of the site would result in significant and permanent environmental harm to the intrinsic value, beauty, open character and landscape character and verdant appearance of the site and its contribution to the surrounding area. The proposal would therefore be contrary to Policy 12 of the adopted Core Strategy and Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2021) and this harm would significantly outweigh the benefits when considered against the Framework as a whole.
2. The site is located within a rural area, and this is not a sustainable location. This location would be heavily reliant on the use of private cars for trips to shops, services and work/school as the immediate area has no such facilities. Therefore the proposal is contrary to paragraph 79 of the NPPF which states that housing should be located where it will enhance or maintain the vitality of rural communities.
3. The development results in the loss of a Category A tree of possible veteran status contrary to the requirements of Policies DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the requirements of the National Planning Policy Framework (2021).

4. The proposed development is considered likely to have a significant detrimental effect on the amenity of future occupiers of plot 1 as a result of noise and disturbance from events at the adjacent Parish Rooms contrary to the requirements of Policy DM10 of the SADMP and the NPPF. Furthermore the proposed development is likely to result in restrictions being placed on the use of the Parish Room which would significantly reduce its value as a facility enjoyed by the community, particularly so when the lack of facilities has been identified as an issue facing villages within the parish, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.

This page is intentionally left blank



**Planning Committee 20<sup>th</sup> December 2022**  
**Report of the Planning Manager (Development Management)**

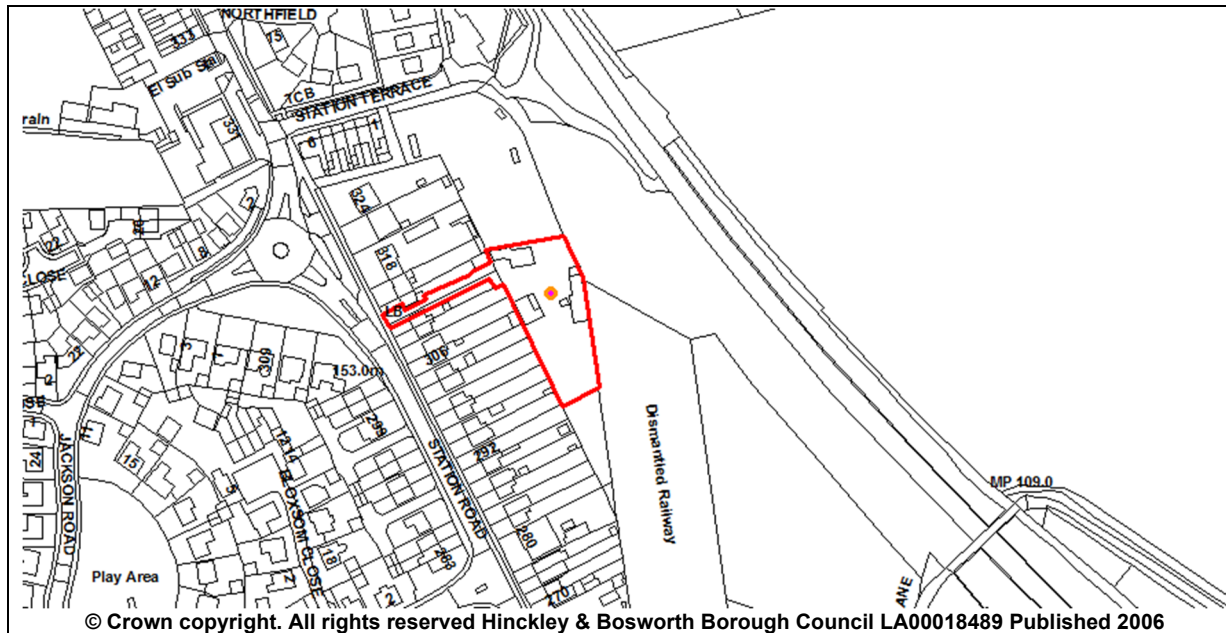
**Planning Ref: 22/00733/FUL**  
**Applicant: Mr Tsen Wharton**  
**Ward: Bagworth & Thornton**



Hinckley & Bosworth  
Borough Council

**Site: 314A Station Road Bagworth Coalville Leicestershire LE67 1BN**

**Proposal: Erection of 3 no. 3 bedroom 2 storey dwellings, 1 no. 6 bedroom House of Multiple Occupation, extension to existing bungalow, widening of access driveway**



**1. Recommendations**

**1.1. Grant planning permission subject to:**

- Planning conditions outlined at the end of this report

**2. Planning application description**

- 2.1.** The application seeks full planning permission for the Erection of 3 no. 3 bedroom 2 storey dwellings, 1 no. 6 bedroom House of Multiple Occupation, extension to existing bungalow, widening of access driveway at No. 314A Station Road in Bagworth, Leicestershire.
- 2.2.** The proposal is to retain the existing dwelling but add a single storey side extension and develop a further 4 properties on the remainder of the plot. All utilising the existing private road access. This would mean there are 5 properties utilising the private access road.
- 2.3.** Proposed changes to the existing dwelling are generally in line with those that would normally be permitted under the various classifications of Permitted Development regulations. Proposed is a side extension, 4.5 metres wide for the full depth of the property. Also internal re-configuration and tidying up the external walls is proposed to create a modern 4 bedroom family home.

2.4. The proposed 3 no. 3 bedroom dwellings would be 2 storey detached dwellings with masonry cavity walls with pitched tile roofs.

2.5. The 6 bedroom house proposed would be a House of Multiple Occupation. The 2 storey detached dwelling would have a pitched roof and masonry cavity walls. All new build properties are proposed to be a mixture of red brick and render with grey concrete tiles to match the local 1930's vernacular. The front elevation of No. 5 would face north, away from dwellings on Station Rd.

### **3. Description of the site and surrounding area**

3.1. 314A Station Road is a 1960's brick and tile built bungalow erected on the back land behind the row of 1930's 2 storey semi-detached houses on the Eastern side of Station Road. The land is sandwiched between the rear gardens of the houses and the former mine railway now an area of open woodland. The site is not within a Conservation Area & the existing property is not listed or locally listed. No planning applications are registered on the site. There are no heritage assets within a distance which will be affected by the development. The property occupies a site area of approximately 2000sqm which is mainly open space. As well as the bungalow, the site has a large garage and workshop and a number of abandoned kennels. The property has been empty for a couple of years.

### **4. Relevant planning history 21/10105/PREHMO**

- Pre-app for Retention of existing dwelling with alterations and the erection of 4 new dwellings consisting of 3 no. 3 bedroom (2 storey) houses and 1 no. HMO with 6 bed spaces (2 storey).
- Closed
- 28.09.2021

### **5. Publicity**

5.1. The application has been publicised by sending out letters to local residents and posting a site notice.

5.2. 6 public comments have been received with 5 of them objecting to the proposal and 1 in support.

5.3. The main summarised points of objection are:

- 1) The rear gardens of existing dwellings would be overlooked
- 2) Privacy would be affected
- 3) The forest views to the rear of existing dwellings would be impacted
- 4) The access road is too narrow
- 5) The HMO would be out of character for the village
- 6) Light to existing dwellings will be affected
- 7) Additional noise & light pollution
- 8) Too close to existing dwellings
- 9) Property values will fall

5.4. 1 Letter of support has been received making the following summarised points:

- 1) The site has been empty for a few years. Development will provide badly needed homes in the area
- 2) A new fence would be built along the boundaries of 312 & 314
- 3) New homes are much better than an empty plot

## **6. Consultation**

6.1. No objection has been received from:

- LCC Ecology (Condition relating to biodiversity improvement plan)
- LCC Highways (Condition relating to parking areas, vehicular visibility splays, turning areas)
- HBBC Waste (Condition relating to bin storage and collection point)
- HBBC Drainage (Condition relating to ground levels)
- HBBC ES Pollution 2

6.2 Bagworth & Thornton Parish Council are concerned about the proposal. The main concerns are: 'the proximity of the access driveway to and from Station Road is too close to the existing roundabout. There is already on street parking too close to this roundabout making it dangerous for pedestrians, especially those with disabilities and prams, to cross safely at the existing designated area. The additional traffic accessing the new development will possibly result in the need to install no waiting/ loading restrictions. Displacing the vehicles that use this part of Station Road will make matters worse. The length of Station Road from Beacon View to the roundabout is effectively a single file carriageway necessitating southbound traffic to yield to oncoming traffic.

There is no evidence that the proposal to widen the existing driveway between numbers 313 and 314 is permanent and forms a legal right of way. There is evidence, that has already been reported by Ward Cllrs to substantiate claims that the driveway has already been widened making at least part of the application to be retrospective. Furthermore, it is questionable that the widening complies with statutory requirements given the close proximity to number 312. Additionally, there is evidence suggesting that other works have already commenced, perhaps necessitating the whole application to be re-submitted retrospectively and due process to begin from the start, providing consultees opportunity to objectively comment'.

## **7. Policy**

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- Policy 5: Transport Infrastructure in the Sub-Regional Centre
- Policy 7: Key Rural Centres
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)
- Bagworth Neighbourhood Plan (Draft)

## **8. Appraisal**

### **8.1. Key Issues**

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Ecology and biodiversity
- Archaeology
- Contamination
- Planning balance

### Principle of development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. The Emerging Local Plan for 2020-39 has been out for consultation at Regulation 19 draft stage (February to March 2022). As the new Local Plan progresses this will increase the weight to be afforded to the new Local Plan, with very limited weight afforded to it at present. The Council cannot currently demonstrate a five year supply of housing, with currently 4.89yrs supply as of 31 March 2022.
- 8.5. Policy 10 of the adopted Core Strategy seeks to support development within the Bagworth settlement boundary to deliver a minimum of 60 new dwellings. The site lies within the settlement boundary for Bagworth. Policy DM1 of the SADMP which is in accordance with paragraph 11(d) of the NPPF, also seeks to support sustainable development. The site is in a sustainable location within the settlement boundary where there is generally a presumption in favour of residential development. In addition, the site has good access to services and facilities within Bagworth and to good public transport links between Leicester and Coalville.
- 8.6. As such, the principle of residential development on the site would be acceptable in terms of Policy 10 of the Core Strategy, Policy DM1 of the SADMP and guidance in the NPPF, subject to all other planning matters being satisfactorily addressed.

### Design and impact upon the character of the area

- 8.7. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.8. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.9. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.10. The proposed site plan, elevations and floor plans, illustrate that the scheme would be a suitable form of development that respects the existing character of the site, whilst ensuring that the resultant built form is appropriate for the needs of modern habitation.
- 8.11. The choices of materials, as illustrated on the plans submitted, would be appropriate for the nature of the site, and would match well with the existing structures to be retained & existing dwellings along Station Road. All new build properties are proposed to be a mixture of red brick and render with grey concrete tiles to match the local 1930's vernacular.
- 8.12. Overall the scheme is considered to be acceptable and in compliance with Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.
- 8.13. 

Impact upon neighbouring residential amenity

Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 8.14. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.15. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.16. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural

environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

- 8.17. The scheme will have a suitable relationship with nearby residential units in terms of the inter-unit relationship within the site and the distance between the proposed and the existing dwellings along Station Road. The internal configurations and the orientation of the proposed dwellings also minimises opportunities for overlooking. No. 5 has no side facing windows proposed for the western elevation facing the rear elevations of dwellings on Station Road, 35m away, apart from a 1<sup>st</sup> floor landing window which is for a non-habitable room. This HMO would provide residential accommodation for workers. No 4 is set back 7m from the western boundary of the site & 40m from the rear elevation of dwellings along Station Road. This distance increases for Unit 3 & 2. No. 2, 3 & 4 have no windows on their Northern or Southern side elevations which maintains privacy between them and the other proposed dwellings. A Landscape enhancement is proposed for the western boundary to provide additional screening and improve biodiversity.
- 8.18. No objections have been received from residents of No. 312 and a letter of support was received from residents of No 314. A 1.5m high acoustic timber fence is proposed to enclose the gardens of 312 & 314 Station Road. A driveway management plan is proposed here to help minimise any disturbance with a speed restriction of 5mph on a bound surface. No main beam lights are to be used here and low-level lighting along the drive will facilitate safe passage and security. Speed bumps are also proposed here with painted lines used to mark areas for safe pedestrian movement. It is not felt, due to the above, the amenity of these two neighbours would be significantly affected by the proposal.
- 8.19. Subject to conditions this proposal is considered to be acceptable in amenity terms and in compliance with Policy DM10 a) and b) of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.
- Impact upon highway safety
- 8.20. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.21. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.22. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.23. The Highways Authority have no objection to the scheme, but have requested a number of conditions be added, should permission be granted. These conditions are in relation to access width, vehicular visibility splays, pedestrian visibility splays, parking & turning. These are considered to be appropriate and reasonable – meeting the tests for planning obligations.

- 8.24. The proposals will have a negligible impact on the highway network. As such, subject to the conditions recommended by the LHA, and an additional condition with respect to EV charging points, the proposal will satisfy policy DM17 and DM10(g) and the NPPF.

#### Flood Risk and Drainage

- 8.25. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.26. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.27. The HBBC Drainage Officer has no objection to the proposal but advises that given the proposed pumped solution there is an increased residual risk of flooding to property in the event of pump failure & recommend a site plan indicating finished ground levels and overland flow routes should be submitted for review. It is considered that there is no drop in the level of control and scrutiny possible on the matter by virtue of requiring it via condition rather than pre-determination, and as such it is proposed that a suitably worded condition is included.
- 8.28. Subject to the suggested conditions being appropriate discharged, the development will therefore satisfy policy DM7 and the NPPF.

#### Ecology and biodiversity

- 8.29. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.30. The application includes a set of proposals designed to enhance the biodiversity of the site through a number of measures, as well as a calculation of the impact that these will have. LCC Ecology have advised that the biodiversity net gain information plan should be submitted but it is considered this can be secured by condition.
- 8.31. Boundary treatments to the site currently have a wire mesh with concrete / steel posts. The proposal would be to soften this with mixed native species hedging in appropriate locations to improve bio-diversity. Openings in the boundary and separating fences will also be provided to make the site permeable to small native mammals. (hedgehogs etc). A number of feature native trees could also be provided. Appropriate precautionary measures are recommended and a condition will be added for the provision of swallow nest cups & soft and hard landscaping of the site.

#### Housing land supply

- 8.32. 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.

- 8.33. The most recent housing land monitoring statement for the period 2021 -2022 indicates, in table 7, a 5-year supply of 4.89 years.
- 8.34. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:
- “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or*
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*
- 8.35. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.
- 8.36. Paragraph 60 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.
- 8.37. Paragraph 77 of the NPPF sets out that *“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years.”*
- 8.38. Development on this site would contribute to the housing land supply and consideration should be given to para 77 of the NPPF which states:
- “To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability”*
- 8.39. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.40. The provision of 4 dwellings is considered to be a significant benefit of the proposal and weighs in favour of the scheme.
- 8.41. Other Issues



Regarding Parish Council concerns the enforcement officer was consulted regarding the widening of the access at certain points. If permission is refused for this application some remediation may be necessary. The Highways Officer was consulted with the proposal and has no objections subject to the imposition of conditions.

## **9. Equality implications**

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

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.

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

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).

## **9.4 Conclusion**

Policy DM1 supports sustainable development that accords with the policies of the development plan. The site lies within the settlement boundary of Bagworth where residential development is acceptable in principle. By virtue of the siting, scale, design and subject to the use of sympathetic external materials, the proposal would be compatible with, and would not result in any harm to, the character of the area. The proposal would not result in any significant adverse impacts on the privacy or amenity of any neighbouring properties, highway safety or drainage. The proposal would be in accordance with Policies 7 and 11 of the adopted Core Strategy, Policies DM1, DM10, DM17 and DM18 of the adopted SADMP, and is therefore recommended for approval subject to conditions.

## **10. Recommendation**

10.1 **Grant planning permission subject to planning conditions.**

## **11. 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:
  - i. Site Location Plan - Drg No. PE01 Rev B (Received on 15/08/2022)
  - ii. Proposed Layout Plots 2- 4 - Drg No. PL02 Rev A (Received on 16/08/2022)
  - iii. Plot 5 Plans & Elevations - Drg No. PL06 Rev A (Received on 16/08/2022)
  - iv. Preliminary Ecological Appraisal received on 16/08/2022
  - v. Existing & Proposed Plans & Elevations Plot 1- Drg No. P00 Rev A (Received on 15/08/2022)
  - vi. Design and Access Statement received on 01/08/2022
  - vii. Site Plan Access Drive Drg No. PL05 received on 01/08/2022
  - viii. Proposed Site Plan Drg No. PL10 (Received on 01/08/2022)

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

3. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No development shall commence on site until a scheme for surface water drainage, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of any dwellings hereby approved, and retained thereafter.

Details submitted shall include, but not be limited to, test pit/borehole locations and groundwater level information in order to demonstrate that infiltration drainage is feasible for this site. Soakaways should be designed in accordance with CIRIA publication 'The SuDS Manual' (C753).

**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 (2016) and the requirements of the NPPF.

5. Prior to 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. Site preparation and construction shall be limited to the following hours; Monday - Friday 07:30 - 18:00, Saturday 08:00 - 13:00 and no working on Sundays and Bank Holidays.

**Reason:** To help prevent and mitigate noise, odour and pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

6. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. 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 Ecologist's recommendations must be incorporated in any plan. The lighting shall be installed, maintained and operated in accordance with the approved details.

**Reason:** To help prevent and control light pollution in accordance with Policy DM6 & DM7 of the Site Allocations and Development Management Policies DPD (2016) and the NPPF.

7. Prior to the commencement of development a scheme for the installation of electric vehicle charging points will be submitted to and approved in writing by the local planning authority. The scheme shall identify the number of units to benefit from electric charging points, together with full detail of the location and fitting of the units. The charging points will then be implemented in accordance with the approved details.

**Reason:** To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework

8. Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 5.3 metres 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 the National Planning Policy Framework (2021).

9. 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 the National Planning Policy Framework (2021).

10. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

**Reason:** In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (2021).

11. No development shall commence on site until a scheme that makes provision for the secure storage of cycles for each dwelling has been submitted in writing to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.

**Reason:** In the interests of promoting a modal shift in transport movements and in accordance with the National Planning Policy Framework (2021).

12. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

**Reason:** To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2021).

13. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Nicholas C Williams drawing number PL10. 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 the National Planning Policy Framework (2021).

14. 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 adopted Site

15. Development shall not begin until a scheme for protecting No. 312 & No. 314 from noise from incoming & outgoing traffic; has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

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

16. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on 'Site Plan Access Drive' drawing number PL05 have been implemented in full.

**Reason:** To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2021).

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A to E; shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

**Reason:** To safeguard the privacy and amenity of the neighbouring Care Home residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

18. 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 approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

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

19. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

**Reason:** To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

20. The materials to be used on the external elevations of the proposed dwellings hereby permitted shall match the proposed materials as listed in the submitted application form & proposed drawings.

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

21. The development hereby permitted shall be carried out in full accordance with the recommendations and mitigation strategy specified on pages 23-24 of the submitted Ecology Report dated November 21 by Dr. Bodnar received by the local planning authority on 15th July 2022.

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

22. Demolition of the barn with swallow nests must be undertaken outside the bird breeding season & 2 replacement double swallow nest cups & 4 hole nesting bird boxes must be carefully sited at a location to be submitted to and approved by the Local Planning Authority and erected in accordance with the manufacturer's recommendations and approved details.

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

## **12. Notes to applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. 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.
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to

the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

5. Provision for waste and recycling storage of containers and collection across the site will be required and adequate space provided at the adopted highway boundary to store and service wheeled containers.
6. Application forms to discharge conditions and further information can be found on the planning portal website [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

This page is intentionally left blank



Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager (Development Management)

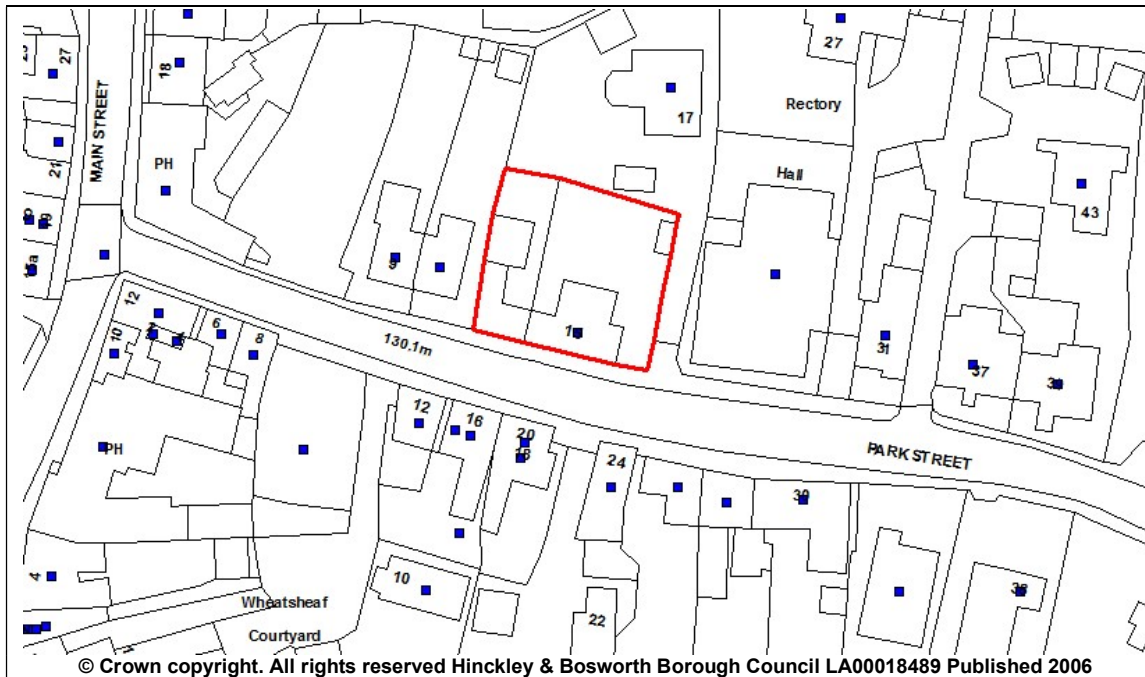
Planning Ref: 22/00473/FUL  
Applicant: Ms Mary Jacques  
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth  
Borough Council

Site: The Old Forge 13 - 15 Park Street Market Bosworth

**Proposal:** Proposed extension and alteration to existing three storey dwelling (Use Class C3) and existing working Forge (Use Class B2) to form a five-bedroom hotel with parking and associated facilities



## 1. Recommendations

### 1.1. Grant planning permission subject to:

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

## 2. Planning application description

- 2.1. This planning application seeks full planning permission for extensions and alterations to an existing three-storey dwelling (Use Class C3) and an existing working forge (Use Class B2) to form a five-bedroom hotel (Use Class C1) with parking and an enclosed garden, alongside additional associated features at The Old Forge, 13 – 15 Park Street, Market Bosworth.
- 2.2. This involves the change of use of the property to create 396.4sqm of total gross new internal floorspace of Use Class C1 (hotel use). An 'L'-shaped single storey extension is proposed to the north and rear of the building, which measures 6m in width x 3.9m in depth to create two downstairs public restrooms to facilitate the dining area. This single storey extension has a tiled pitched roof with a roof ridge

height of 3.4m and an eaves height of 2.3m. This rear extension is constructed with matching brickwork to the existing building.

- 2.3. A covered walkway is also provided within this application to create a direct internal access between the bedroom accommodation and the proposed dining and bar area. The covered walkway has a roof ridge height of 2.5m and an eaves height of 2.1m and is constructed with a timber oak frame and glazing.
- 2.4. New clay chimney pots are created for all existing chimneys and a walled garden is provided within the site to give separation from the parking area and to contain any limited evening activity.
- 2.5. In total, the proposal generates three new full-time employees and one part-time member of staff. Five vehicle parking spaces and one disabled vehicle parking space are created as well as a bicycle storage area for a total of six bicycles.
- 2.6. During the application process, The Old Forge was listed by Historic England becoming a Grade II Listed building. As a result, this application should now be read in conjunction with the Listed Building Consent application (22/00974/LBC).
- 2.7. On 13 October 2022, the Applicant reduced the capacity of the proposal from a six-bedroom hotel to a five-bedroom hotel to try and mitigate highway safety and parking concerns highlighted during public consultation.

### **3. Description of the site and surrounding area**

- 3.1. The Old Forge, a 590sqm application site, comprises an existing large three-storey dwellinghouse and a functional single storey working forge. The forge has a roof ridge height of 5.4m and an eaves height of 3.5m, whereas the dwelling has a ridge height of 9.3m and an eaves height of 6.7m. The site is accessed via Park Street, and it is bordered by 1.9m high timber fencing to the north and west of the site and a 1.8m high brick wall to the east. Within the site, there is parking to the rear of the dwelling and there is a cellar present below the ground floor with a well. A second well is present in the rear courtyard with a glass cover. The Old Forge became a Grade II Listed building in August 2022.
- 3.2. The Listed Building Entry (National Heritage List England (NHLE) ref 1482523) identifies The Old Forge as a Listed building due to its architectural and historical interest. Architecturally, the function of the forge can be determined from its plan, utilitarian design, and internal features such as the retaining hearths, bellows and other features relating to ironworking. The simplest of forge buildings would have just one hearth, whereas The Old Forge has two. The house is a vernacular take on the restrained townhouse of the late C-18. Historically, the forge illustrates how essential the commodity of ironwork was, produced for local markets from the C18 to C20 and, together, the house and forge are an interesting survival illustrating aspects of domestic and commercial life in a market town.
- 3.3. Located on the periphery of the main District Centre of Market Bosworth, 13 - 15 Park Street is adjoined to the Market Bosworth Parish Hall to the east and it is surrounded by existing residential properties. The application site is also within 30m of Ye Olde Red Lion Public House. The Old Forge is within the Market Bosworth Conservation Area and is directly referred to within the Market Bosworth Conservation Area Appraisal and Management Plan (MBCAA). The MBCAA highlights the forge as a building of particular interest and the side boundaries of the

site and the highway in front of the site are acknowledged as views and vistas to be protected. Within the MBCAA, Park Street is identified as having,

*“An eclectic mix of styles and ages of properties from early C18 to late C20 and a number of Listed Buildings. The majority of the buildings at the west end of Park Street are two-storey and open directly onto the pavement. Boundary walls and railings are important in maintain a strong building line which softens the Park. Materials include red and tallow brickwork painted brickwork and render. Roofs are slate, tiles or shingle punctuated by a range of interesting chimney stacks.”*

The MBCAA also states that, “The fine chimney stack at the Forge would be enhanced if it was capped with a clay chimney pot.” Due to its special historic and architectural interest and position within the historic core of the settlement, the Listed Building makes a positive contribution to the character and appearance, and thus significance, of the Market Bosworth Conservation Area.

- 3.4. Blacksmith's forges are rare survivals, particularly in town locations where the demands on land have meant that most have been demolished or converted to other uses. The forge was built in the late C-18 and was in continual use until 1973. Since then, the forge has been in occasional use. The adjoining house, with which it shares a chimney, is contemporary to the forge and is thought by Historic England to have been continually in use as a dwelling since its construction. The workshop to the rear of the forge dates from around the late-19th century and a smaller outbuilding attached to the rear of the workshop has been replaced by the present larger building by the 1950s. The rear wing of the house appears to have been re-built and extended in the late C-20, with further additions in the early C-21.
- 3.5. Both buildings are constructed with a brick finish, clay tiled roof, and timber doors and windows. The forge utilises a brick finish with a Flemish Garden wall bond, a dentil course at eaves level and a corbelled kneeler to the west end of the south elevation. On the other hand, the dwellinghouse incorporates a brick finish that has a Flemish bond, a dentil course at eaves level on the front elevation and late C-20 brick finish in stretcher bond on the right wing of the property
- 3.6. However, the front elevation of the forge is rendered from the ground to the base of the chamfered blue brick window cills, and the west elevation, including the attached workshops, are fully rendered and devoid of openings. The eastern elevation of the front block of the dwellinghouse is also rendered.

#### **4. Relevant planning history 22/00974/LBC**

- Proposed extension and alteration to existing three-storey dwelling (Use Class C3) and existing working Forge (Use Class B2) to form a five-bedroom hotel with parking and associated facilities
- Awaiting Decision
- TBD

#### **5. Publicity**

- 5.1 The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2 In total, there has been eleven responses to the application. All these responses have objected to the scheme, including the Market Bosworth Society, on the following grounds:

- 1) Adverse impacts to neighbouring residential amenity such as smells
- 2) Additional bars increase anti-social drunken behaviour within Market Bosworth
- 3) Concerns over light pollution
- 4) The conversion to a hotel is, "Unsuitable and inappropriate," to the character of Park Street, which is a predominantly residential area
- 5) Exacerbation of congestion in the road network
- 6) The existing access is not wide enough to support large vehicles such as those for deliveries
- 7) Highway safety
- 8) Insufficient on-site parking provision for staff, deliveries, and guests
- 9) Loss of a cherished community heritage asset
- 10) Loss of a domestic property
- 11) Loss of tourism due to the loss of the working forge
- 12) Management of waste concerns
- 13) Noise pollution
- 14) No community benefit from the application
- 15) Overlooking
- 16) The planning information is not sufficient or clear enough as to what the exact plans are
- 17) The Old Forge is not structurally capable of conversion
- 18) There is already a saturation of pubs and hotels within Market Bosworth and there is no need for further development of this kind

5.3 However, Market Bosworth Society did support some aspects of the application including some of the building works identified in the Structural Report (submitted: 17.05.2022) and are pleased to read that works have been recommended to preserve the buildings. The Market Bosworth Society have requested that the forge is retained for historic and heritage reasons.

## **6. Consultation**

6.1 The following consultees did not object to the application:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- Historic England
- HBBC's Waste Management Officer (subject to conditions)
- Leicestershire County Council (LCC)'s Highways Officer (subject to conditions)

6.2 HBBC's Environmental Services' Pollution Officer queried what fixed plant is proposed and whether the plant was internal. The Pollution Officer also highlighted contrasting information for the limit for fixed plant, which is given as 49dB in Section 8.3 and 48dB in Section 15. The absence of kitchen ventilation was also noted, and it was advised that a risk assessment provided in the *Control of Odour and Noise from Commercial Kitchen Exhaust Systems* guidance document, should be completed to demonstrate that any odour control proposed is adequate for the use of the kitchen. The Applicant has not confirmed the details of the fixed plant, but these details are secured via planning condition.

6.3 Market Bosworth Parish Council have objected to the scheme on the following grounds:

- Adverse impacts on neighbouring residential amenity
- Exacerbation of congestion in the road network
- Highway safety concerns
- Insufficient parking for staff, guests and deliveries

- Loss of a heritage asset
  - Negative impacts to the residential character of Park Street
  - Noise pollution
  - Saturation of hotels within Market Bosworth
- 6.4 Market Bosworth Parish Council have also highlighted that the public parking spaces across the road are in fact privately owned by The Dixie Arms and are only available to patrons of the hotel.
- 7. Policy**
- 7.1 Core Strategy (2009)
- Policy 7: Key Rural Centres
  - Policy 11: Key Rural Centres Stand Alone
  - Policy 23: Tourism Development
- 7.2 Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM10: Development and Design
  - Policy DM11: Protecting and Enhancing the Historic Environment
  - Policy DM12: Heritage Assets
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
  - Policy DM24: Cultural and Tourism Facilities
- 7.3 National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
  - Planning Practice Guidance (PPG)
- 7.4 Other relevant guidance
- Good Design Guide (2020)
  - Market Bosworth Conservation Area Appraisal (MBCAA) (2014)
  - Market Bosworth Neighbourhood Plan 2014 – 2026 (2015)
  - National Design Guide (2019)
  - Highway Authority Design Guide
- 8. Appraisal**
- 8.1. The key issues in respect of this application are therefore:
- Assessment against strategic policies
  - Design and impact upon the character of the area and heritage assets
  - Impact upon neighbouring residential amenity
  - Impact upon parking provision and highway safety
- Assessment against strategic policies
- 8.2. Section 16 of the National Planning Policy Framework (NPPF) encourages building a strong, competitive economy. Paragraph 81 of the NPPF states that, “Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.” In accordance with Paragraph 84(c), planning policies and decisions should enable, “Sustainable rural tourism and leisure developments which respect the character of the countryside.”
- 8.3. Section 17 of the NPPF ensures the vitality of town centres and Paragraph 86(a) promotes development that allows town centres to, “Grow and diversify in a way

that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive character.”

- 8.4. Policy 11 of the adopted Core Strategy identifies Market Bosworth as a Key Rural Centre Stand Alone. In the context of this application, Policy 11 requires development to support additional employment provision to meet the local needs in line with Policy 7; to support the role of Market Bosworth as a tourist destination in its own right; and to require new development to respect the character and appearance of the Market Bosworth Conservation Area by incorporating locally distinctive features of the conservation area into the scheme. Policy 7 of the adopted Core Strategy supports development that ensures that there is a range of employment sites within Key Rural Centres and business that supports the development of the tourism industry in line with Policy 23.
- 8.5. Policy 23 of the adopted Core Strategy states that tourism development for new and extended visitor attractions including holiday accommodation will be encouraged in suitable locations where: the development can help to support existing local community services and facilities; is of a design and scale which is appropriate to minimise impact and assimilate well with the character of the surrounding area with acceptable landscaping; the development adds to Hinckley and Bosworth's local distinctiveness; the development complements the tourism themes of the Borough and; the development adds to the economic wellbeing of the area.
- 8.6. The development of new cultural and tourism facilities is supported by Policy DM24 of the SADMP where it can be demonstrated that the proposal can be accessed by a range of sustainable transport modes. However, there are only three categories that are classified as cultural and tourism facilities, which are: museums and theatres, strategic hotels, and visitor attractions.
- 8.7. The application is in an area accessible by a range of sustainable transport modes. However, the application is not for a strategic hotel, which is defined as those with over 50 rooms in Paragraph 16.8 of the SADMP. Moreover, the application is near Bosworth Hall Hotel, which is identified as a strategic hotel. Consequently, Policy DM24 is not applicable for this application. Nevertheless, strategic hotels are not specified within the NPPF, and therefore the application is still supported by Sections 16 and 17 of the NPPF,
- 8.8. Within the settlement boundary of Market Bosworth, the development is in a suitable and sustainable location, in accordance with Policy 23 of the adopted Core Strategy. Although the creation of three full-time jobs and one part-time job is not considered a significant contribution to the economy of the area, this aspect is still supported by Policies 7 and 11 of the adopted Core Strategy.
- 8.9. To summarise, in assessment against strategic policies, the application is considered acceptable in principle because it supports new employment provision and the development of the tourism industry within a Key Rural Centre Stand Alone in accordance with Sections 16 and 17 of the NPPF and Policies 7, 11 and 23 of the adopted Core Strategy.

Design and impact upon the character of the area and heritage assets

- 8.10. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it

fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 8.11. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a duty on the Local Planning Authority when considering whether to grant Listed Building Consent to have special regard to the desirability of preserving the building, its setting, and any special 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.
- 8.12. Section 16 of the Nation 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 historic asset, great weight should be given to the asset's conservation. Paragraph 193 states that, in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 8.13. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.14. Public benefits from developments can 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
- 8.15. The Planning Practice Guide (PPG) and Historic England Advice Note 2 (HEAN2) Making Changes to Heritage Assets sets out how the policies of the NPPF are expected to be applied and includes guidance on the conservation of and making changes to the historic environment.
- 8.16. 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 that have the potential to affect a heritage asset or its setting will be required to demonstrate:
- a) an understanding of the significance of the heritage asset and its setting, and
  - b) the impact of the proposal on the significance of the asset and its setting
  - c) how the benefits of the proposal will outweigh any harm caused
  - d) any impact on archaeology in line with Policy DM13

- 8.17. Specifically, DM12 refers to heritage assets and development proposals affecting heritage assets and their settings. For Listed Buildings, development will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting, and the development ensures the significance of a conservation area is preserved and enhanced.
- 8.18. General conservation area guidance is provided within the MBCAA, including:
- The identification of prevalent and traditional building materials
  - Factors having a negative influence on the conservation area
  - Means of the enhancement of the character and appearance of the conservation area, which can be defined as the reinforcement of those special qualities that originally warranted designation
- 8.19. Policy 11 (Key Rural Centres Stand Alone) of the adopted Core Strategy and Policy CE1 (Character and Environment) of the Market Bosworth Neighbourhood Plan have the objective of ensuring that development respects the character of Market Bosworth and its conservation area.
- 8.20. The application site is adjacent to Saint Peter's Church Hall and Post Office, and it is in close proximity to Market Bosworth's town centre as well as two hotels, The Dixie Arms and The Red Lion Hotel. Therefore, it is regarded that the conversion of the application site into a commercial use, such as a hotel, is not out of character within the street scene.
- 8.21. Moreover, the conversion of The Old Forge into a commercial use as part of a hotel is considered to represent the optimum viable use of the Listed Building. It is regarded that the conversion of the site to a commercial use reduces the risk of harm to the heritage asset in comparison to other uses such as a residential property. The commercial use of The Old Forge is also likely to lead to the investment in its maintenance necessary for its long-term conservation, as advised by the PPG. The general repairs identified within the Structural Report (submitted: 17.05.2022) aid the structural stability of the forge and improve the condition of its historic fabric. These repairs are secured via planning condition within the Listed Building Consent application.
- 8.22. The development involves limited alteration to the principal elevation of the Listed building and therefore preserves the character of the Listed building. The scheme also enhances the character of the property by improving the existing chimney stacks, as identified, and requested within the MBCAA.
- 8.23. The 'L'-shaped single extension to the northern end of the mid-20<sup>th</sup> century workshop cannot be seen from the highway and is subordinate to the Listed building in scale and massing. The extension utilises matching external materials to the workshop and is considered an appropriate scale, layout, and appearance to preserve the significance of the Listed building and the conservation area.
- 8.24. The covered walkway provides access and circulation between the rooms and the guest lounge in the former house to the bar/lounge, servery and dining area in the former forge and workshops. It is considered that this covered walkway, and the enclosed garden are of an appropriate scale and form and are constructed with sympathetic materials that respect the architectural and historical interest of The Old Forge.



- 8.25. The loss of internal historic fabric is discussed in detail within the Listed building Consent planning application, 22/00974/LBC. However, following discussion with the Conservation Officer and the Agent and the implementation of mitigation strategies within amended plans, the impact of the conversion of The Old Forge into a commercial use is not considered to unacceptably harm the heritage asset.
- 8.26. To summarise, the commercial use of The Old Forge as a hotel is considered to represent the optimum viable use of the Listed Building and reduces the risk of harm to the heritage asset in comparison to other potential uses of the buildings. Furthermore, it is likely to lead to the investment in the maintenance necessary for its long-term conservation. The creation of the single storey extension, the covered walkway and the enclosed garden are not regarded to have a significant adverse impact on the character of the Listed Building or the surrounding area. With the improvements to the chimney stacks and the limited impact to the principal elevation of the Listed Building, the proposal is considered to sustain and enhance the significance of the heritage asset and its contribution to its setting within the Market Bosworth Conservation Area.
- 8.27. When assessing the application against the balancing exercise of the requirements of Paragraph 199 of the NPPF, it is considered that the public benefits of this application such as the enhancement of the heritage asset, outweigh the potential negative impacts of the scheme.
- 8.28. By virtue of these factors, the application is considered acceptable and in accordance with: Sections 16(2), 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990; Section 16 of the NPPF; Policy 11 of the adopted Core Strategy; Policies DM1, DM10, DM11, DM12 of the SADMP; Policy CE1 of the Market Bosworth Neighbourhood Plan; the Good Design Guide; and National Planning Practise Guidance.

#### Impact upon residential amenity

- 8.29. Policy DM10 of the SADMP also states that proposals should not adversely affect the occupiers of the neighboring properties or the future occupiers of the property.
- 8.30. As the existing use of the property is a dwelling, the scheme is not considered to have a significant adverse impact on the residential amenity of 11 and 17 Park Street, nor the property to the north of the site in regard to creating an overbearing impact or resulting in a loss of light or loss of privacy. Moreover, due to its limited prominence, the single storey extension to the rear of the workshop is not considered to result in a loss of light or loss of privacy to 11 Park Street to the west of the site.
- 8.31. During public consultation, many concerns were raised regarding noise pollution as a result of this development. As part of this application, a detailed Noise Report was submitted on 17 May 2022, which suggested that a sound limit 1m from the fixed plant area should be implemented for the scheme.
- 8.32. The commercial use of the property is not considered to have a significant impact on noise pollution in comparison to the noise pollution impacts of operating the existing and functional forge (Use Class B8). In addition, as the site is within 200m of the Church Hall as well as five existing accommodation establishments and eight food outlets such as The Red Lion Hotel and The Dixie Arms Hotel, the commercial use is not considered to significantly exacerbate the existing situation of noise pollution within the area. Nevertheless, the details of the proposed fixed plant and

the scheme's noise pollution mitigation strategy have not been confirmed. Following discussion with HBBC's Pollution Officer, a planning condition has been attached to mitigate noise pollution from the development to ensure that the scheme does not have a significant adverse impact on the residential amenity of neighbouring properties.

- 8.33. In conclusion, the conversion of The Old Forge into use as a hotel does not have a significant adverse impact on residential amenity such as overlooking, loss of privacy or any overbearing or overshadowing impacts in comparison the application site's current use as an existing dwelling and an operational forge. By virtue of these factors and subject to the completion and compliance with a noise pollution mitigation strategy, the proposal does not result in any significant adverse impacts to neighbouring residential amenity in accordance with Policy DM10 of the adopted SADMP and the adopted Good Design Guide.

#### Impact upon parking provision

- 8.34. 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. Paragraph 111 of the NPPF 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.
- 8.35. The Applicant proposes no changes to the existing access, which leads onto Park Street, an adopted 'C' classified road, that is subject to a 30mph speed limit and runs in a one-way direction from west to east. Along Park Street, on the side of the side of the development are double yellow lines in the carriageway. The existing access appears to be approximately 3m wide with gates that abut the public footway.
- 8.36. The Local Highway Authority (LHA) advised that they would have preferred to see an access width that enables vehicles to pass at the access. Nevertheless, as Park Street is a one-way street and has notable parking restrictions along the carriageway on the side of the site, the LHA are satisfied that if a vehicle must wait to enter the site, it would not be unsafe for the vehicle to stop the flow of traffic whilst another vehicle exited the site. The LHA also acknowledge that the access is existing, and that the proposal does not represent a significant intensification of traffic movements at the access and therefore the access arrangements are safe and suitable for the scheme.
- 8.37. In spite of this, the LHA did request that the Applicant considers relocating the gates so that they are set further back from the highway or to remove the gates altogether to reduce the risk of pedestrians having to walk into the road. However, the Applicant stated that the gates are already in-situ and have operated without incident over many years and, in doing so, have afforded an appropriate level of security to the property. The Applicant has stated that gates are kept open during daytime hours and, outside of these hours, visitors will be provided with suitable fob keys to operate the electric gates themselves, thereby minimising any interruption to traffic flow whilst visitors enter the site.
- 8.38. The application provides five vehicular parking spaces and one disabled vehicular parking space, which provides one vehicular parking space for every room in the hotel. However, this does not incorporate parking provision for the three proposed

full-time members of staff and one part-time member of staff. In spite of this, due to the restraints of the application site, this scheme appears to provide the most off-street parking provision that the site can provide.

- 8.39. The LHA also advise that, as to accord with Paragraph 3.165, Part 3 of the Leicestershire Highway Design Guide (LHDG), parking spaces should have minimum dimensions of 2.4m x 5.5m, with 0.5m added if bounded by a wall, fence, hedge, line of trees or other similar obstructions on one side, and 1m added if bounded on both sides. The disabled parking provision is in accordance with Figure DG13 of the LHDG and all the parking spaces are 2.4m in width x 5.5m in depth in accordance with Paragraph 3.165, Part 3 of the LHDG.
- 8.40. Also, to accord with Paragraph 3.179, Part 3 of the LHDG, cycle parking should be secure, weather protected, well-lit and enjoy good natural observation. This is secured via planning condition.
- 8.41. Whilst the LHA would have preferred the proposal to offer a greater number of off-street parking spaces, it is acknowledged that the Applicant intends to recruit staff locally and that the development includes the provision of cycle parking. The application site also has good access to bus services and there is public parking located close by as well as on-street parking.
- 8.42. By virtue of these factors, the LHA are satisfied that the scheme offers good opportunities to promote the use of sustainable travel methods and they confirm that the proposed parking provision is acceptable. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP and the adopted highway authority design guide.

## **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 proposed development is considered to be compliant with the relevant national and local policy as it:

- Is an appropriate scale and design
- Does not have an adverse impact upon the character and appearance of the heritage asset or the Market Bosworth Conservation Area
- Does not have a significant adverse impact upon the amenity of neighbours
- Does not have a significant adverse impact upon the road network or highway safety
- Provides sufficient vehicle parking spaces for off-street parking

10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

**11. Recommendation**

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

**11.2 Conditions and Reasons**

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

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

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

- Agent Heritage Statement (submitted: 12.10.2022)
- Application Form (submitted: 17.05.2022)
- Design & Access Statement (submitted: 17.05.2022)
- Heritage Statement (submitted: 13.10.2022)
- Noise Report (submitted: 17.05.2022)
- Proposed Elevations & Sections - Drg No. P-051 C (submitted: 13.10.2022)
- Proposed Floor Plans - Drg No. P-050 B (submitted: 13.10.2022)
- Structural Report (submitted: 17.05.2022)
- Supplementary Statement (submitted: 13.10.2022)
- Topographical Survey - Drg No. AU21-4461-1 (submitted: 17.05.2022)

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

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Cronin Development Consultancy Ltd drawing number P-050 Rev.A. 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 the National Planning Policy Framework (2021).

4. The development hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking shall be provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.

**Reason:** To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2021).

5. The development shall not be occupied until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which 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 to facilitate collection of waste via a registered waste carrier.

**Reason:** To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

6. Development shall not begin until a scheme for protecting nearby dwellings from noise from the proposed development has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before the permitted development first comes into use.

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

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

**Reason:** To safeguard amenities of neighbouring properties in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

## **12. Notes to applicant**

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

2. A separate consent may be required under the Town and Country Planning (Control of Advertisement) Regulations 2007 in respect of the display of advertisements on these premises. Advice may be sought from the Local Planning Authority.

Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager (Development Management)

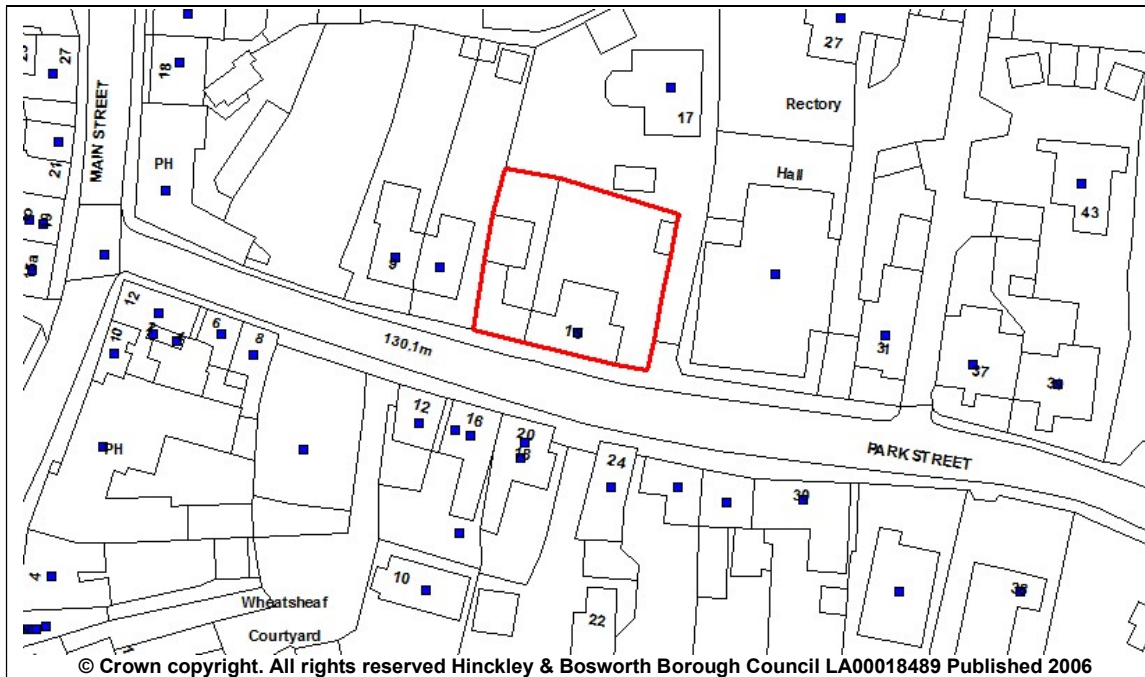
Planning Ref: 22/00974/LBC  
Applicant: Ms Mary Jacques  
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth  
Borough Council

Site: The Old Forge 13 - 15 Park Street Market Bosworth

**Proposal: Proposed extension and alteration to existing three storey dwelling (Use Class C3) and existing working Forge (Use Class B2) to form a five-bedroom hotel with parking and associated facilities**



## 1. Recommendations

- 1.1. **Grant Listed Building Consent** subject to:
- Conditions outlined at the end of this report

## 2. Planning application description

- 2.1. This application seeks Listed Building Consent for the extension and alteration of The Old Forge, Park Street, Market Bosworth. The Old Forge is a Grade II Listed Building, and these alterations and extensions enable the heritage asset to convert the existing three-storey dwelling and functional forge (Use Class B2) into a five-bedroom hotel (Use Class C1).
- 2.2. To facilitate this conversion, the existing dwellinghouse is altered to form: an office, disabled WC, guest lounge, kitchen, and manager's lounge on the ground floor; three bedrooms with en-suites on the first floor; and two bedrooms with en-suites on the second floor. A stud wall in the modern rear wing of the property is removed to open up the proposed manager's lounge and kitchen and several stud walls are created or repositioned to partition off staircases, associate corridors and to create some of the proposed en-suites.

- 2.3. Existing internal plank doors are retained and fire-treated to comply with Building Regulations (Means of Escape) or they are re-used within the internal layout. All new doors are constructed with timber and are a plank-style with ironmongery to match the existing doors. The ceiling joists and timbers are stripped back and left exposed throughout the dwellinghouse, and timber floorboards are installed throughout the property including in the second-floor bedroom, which replaces the failed cement screed floor. The walls and ceilings are plastered and painted. The windows are proposed with metal or timber framed with positions of mullions and transoms to match those of the primary windows.
- 2.4. In this development, the existing forge is converted into a bar/lounge to serve the hotel. Photomontage Sheets P-052A and P-053A (submitted: 12.10.2022) provide details of the proposed internal decorative finished throughout the forge. To support this conversion, the opening between the bar/lounge and the servery is widened and supported by exposed timber beams or a steel RSJ that is finished in black to match steelwork elsewhere in the forge. The planked stable doors that are currently located between the forge and the rear workshop are reused within the proposed servery area.
- 2.5. Some general repairs are also undertaken in accordance with the recommendations of the Structural Report (submitted 12.10.2022), which includes replacing the cement-based mortar pointing with lime-based mortars, replacing bricks, and strapping and tying together the walls of the forge. The cast iron windows are repaired within the forge and secondary glazing is installed within all existing window reveals of the heritage asset.
- 2.6. The steel column within the centre of the forge and its associated beams with attached equipment are retained but the stairs to the mezzanine floor are removed. The ceiling is extended over the former opening and an access hatch is created to replace the opening for the staircase. The drill press within the forge is relocated within the enclosed garden, or the servery/dining area and the anvil benches are removed.
- 2.7. Following discussion with the Agent, the Applicant and the Council's Conservation Officer, the proposals were amended to retain the two hearths and the bellows in situ within the forge.
- 2.8. The free-standing hearth is partially enclosed in a glazed casing following the removal of all nails and other metal protrusions including the railing on the front of the hearth that faces towards the front door. The existing metal canopy on the hearth is retained but the mortar remnants on the existing brickwork, the two small modern blink plinths to the rear of the hearth, the small water tank attached above the plinths and the mechanically driven air pump to the rear of the hearth are removed. However, all small items and equipment within the forge are retained and remain on display within the forge and the associated workshops.
- 2.9. The 19<sup>th</sup> century workshop attached to the forge is utilised in this proposal as a servery with a bar along the side wall and the attached mid-20<sup>th</sup> century workshop is converted into a dining area with a small storeroom in the corner. The existing large openings to the eastern elevation are fitted with glazing and French doors to open out into the exterior courtyard. A walled garden is created within the existing courtyard site to provide separation from the parking area and to contain any limited evening activity.



- 2.10. An 'L'-shaped single storey extension is produced to the north of the mid-20<sup>th</sup> century workshop, which measures 6m in width x 3.9m in depth to provide two downstairs public restrooms for the dining area. This single storey extension has a tiled pitched roof with a roof ridge height of 3.4m and an eaves height of 2.3m. This rear extension is constructed with matching brickwork to the existing building.
- 2.11. A covered walkway is also created within this application to provide a direct internal access between the bedroom accommodation and the proposed dining and bar area. The covered walkway has a roof ridge height of 2.5m and an eaves height of 2.1m and is constructed with a timber oak frame and glazing.
- 2.12. There are no significant alterations to the principal elevation of the heritage asset, but new chimney clay pots are created for all existing chimneys.
- 2.13. This Listed Building Consent is considered in tandem with the full planning application, 22/00473/FUL.

### **3. Description of the site and surrounding area**

- 3.1. The Old Forge, a 590sq.m application site, comprises an existing large three-storey dwellinghouse and a functional single storey working forge. The forge has a roof ridge height of 5.4m and an eaves height of 3.5m, whereas the dwelling has a ridge height of 9.3m and an eaves height of 6.7m. The site is accessed via Park Street, and it is bordered by 1.9m high timber fencing to the north and west of the site and a 1.8m high brick wall to the east. Within the site, there is parking to the rear of the dwelling and there is a cellar present below the ground floor with a water well. A second water well is present in the rear courtyard with a glass cover. The Old Forge became a Grade II Listed Building in August 2022.
- 3.2. The Listed Building Entry (National Heritage List England (NHLE) ref 1482523) identifies The Old Forge as a Listed Building due to its architectural and historical interest. Architecturally, the function of the forge can be determined from its plan, utilitarian design, and internal features such as the retaining hearths, bellows and other features relating to ironworking. The simplest of forge buildings would have just one hearth, whereas The Old Forge has two. The house is a vernacular take on the restrained townhouse of the late C-18. Historically, the forge illustrates how essential the commodity of ironwork was produced for local markets from the C18 to C20 and, together, the house and forge are an interesting survival illustrating aspects of domestic and commercial life in a market town.
- 3.3. Located on the periphery of the main District Centre of Market Bosworth, 13 - 15 Park Street is adjoined to the Market Bosworth Parish Hall to the east, and it is surrounded by existing residential properties. The application site is also within 30m of Ye Olde Red Lion Public House. The Old Forge is within the Market Bosworth Conservation Area and is directly referred to within the Market Bosworth Conservation Area Appraisal and Management Plan (MBCAA). The MBCAA highlights the forge as a building of particular interest and states that, "The fine chimney stack at the Forge would be enhanced if it was capped with a clay chimney pot."
- 3.4. Blacksmith's forges are rare survivals, particularly in town locations where the demands on land have meant that most have been demolished or converted to other uses. The forge was built in the late C-18 and was in continual use until 1973. Since then, the forge has been unused until the very late-20<sup>th</sup> century, from when it was been in occasional use until the early 2020s. The adjoining house, with which it shares a chimney, is contemporary with the forge and is thought by Historic

England to have been continually in use as a dwelling since its construction. The workshop to the rear of the forge dates from around the late-19th century and a smaller outbuilding attached to the rear of the workshop has been replaced by the present larger building by the 1950s. The rear wing of the house appears to have been re-built and extended in the late C-20, with further additions in the early C-21.

- 3.5. Both buildings are constructed with a brick finish, clay tiled roof, and timber doors and windows. The forge utilises a brick finish with a Flemish Garden wall bond, a dentil course at eaves level and a corbelled kneeler to the west end of the south elevation. On the other hand, the dwellinghouse incorporates a brick finish that has a Flemish bond, a dentil course at eaves level on the front elevation and late C-20 brick finish in stretcher bond on the right wing of the property.
- 3.6. However, the front elevation of the forge is rendered from the ground to the base of the chamfered blue brick window cills, and the west elevation, including the attached workshops, are fully rendered and devoid of openings. The eastern elevation of the front block of the dwellinghouse is also rendered.
- 3.7. Internally, the forge is one room with a stair up to a mezzanine floor, whereas the earlier adjoined workshop is open to its mono-pitch roof. The later, northern most workshop has a mezzanine to the south end and the north end is open to its steel truss roof. There is a smaller free-standing brick hearth to west, and a larger brick hearth against the east party wall with the house; the chimney to this larger hearth shares the stack at the west end of the house.
- 3.8. Within the dwellinghouse, there are exposed ceiling joists and beams present in most rooms, and the purlins are visible on the attic floor. Much of the rear wing of the property appears to have been rebuilt re-using old materials. There is also a large open brick fireplace on the east wall of the eastern front reception room.

#### **4. Relevant planning history** **22/00473/FUL**

- Proposed extension and alteration to existing three storey dwelling (Use Class C3) and existing working Forge (Use Class B2) to form a six-bedroom hotel with parking and associated facilities
- Awaiting Decision
- TBD

#### **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 There have been five objections to the application on the grounds that the development:
  - 1) Creates overlooking and loss of privacy concerns to neighbouring properties
  - 2) Exacerbates noise pollution within the local area
  - 3) Has a significant adverse impact on highway safety
  - 4) Increase in light pollution
  - 5) Increases waste disposal concerns
  - 6) Involves internal works that are undesirable and outside of the terms of the property's Grade II Listed status
  - 7) Is detrimental to the existing hotel businesses within the local area
  - 8) Results in the loss of a heritage asset

- 9) Results in the loss of an existing hearth  
10) Results in the loss of an operational traditional forge
- 5.3 However, it is noted that Market Bosworth Society supported some of the buildings works identified within the Structural Report (submitted: 12.10.2022), which preserves the buildings.
- 5.4 It is acknowledged by the Planning Officer that the impact of a new hotel on existing businesses within the local area is not a planning concern, nor a concern for a Listed Building Consent application. Moreover, concerns regarding highway safety, impacts to neighbouring amenity including overlooking, loss of privacy, light pollution and noise pollution, and issues regarding waste are not matters assessed via Listed Building Consent application. The heritage asset is privately owned and therefore the property's use as an operational forge is reliant upon the discretion of the owner of the site and therefore the loss of this use is not a planning consideration.
- 5.5 As a result, the main concerns that have arisen from public consultation are:  
1.) Loss of a heritage asset  
2.) Damage to the character and architectural and historical significance of the internal layout of the heritage asset
- 5.6 Following discussion with Agent, the Applicant, and the Conservation Officer, the proposal was amended to retain both existing hearths and the bellows in situ within this application.
- 6. Consultation**
- 6.1 Market Bosworth Parish Council objected to the planning application on the following grounds:
- The schedule of works for this application is insufficient for a Listed Building Consent Application
  - The conversion is inappropriate within a residential area
  - Highway safety concerns
  - Insufficient parking
  - Loss of a heritage asset
  - Noise pollution
  - Significant adverse impacts to neighbouring residential amenity
  - There is no business case for another hotel within Market Bosworth
- 6.2 The schedule of works was amended on 28.11.2022 and approved by the Council's Conservation Officer.
- 6.3 As identified within Paragraph 5.3 of this report, the business case for another hotel within Market Bosworth and the effects on highway safety, off-street parking provision, noise pollution and residential amenity are not planning considerations for a Listed Building Consent application.
- 6.4 There have been no objections from the following consultees:
- Hinckley & Bosworth Borough Council (HBBC)'s Conservation Officer (subject to conditions)
  - Historic England
  - Leicestershire County Council (LCC)'s Archaeologist Unit (subject to conditions)

- 6.5 Following discussion with LCC's Archaeologist Unit and HBBC's Conservation Officer, LCC's Archaeologist Unit revised their initial comments and requested a Level 3 Historic Building Recording as a pre-commencement planning condition rather than a targeted historic building assessment prior to determination.

## **7. Policy**

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

- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

- 7.2 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

- 7.3 Other relevant guidance

- Good Design Guide (2020)
- Market Bosworth Conservation Area Appraisal (MBCAA) (2014)
- National Design Guide (2019)

## **8. Appraisal**

- 8.1. The key issues in respect of this application are therefore:

- Impact upon the Listed Building and Conservation Area

Impact upon the Listed Building and Conservation Area

- 8.2 Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features.

- 8.2. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a duty on the Local Planning Authority when considering whether to grant Listed Building Consent to have special regard to the desirability of preserving the building, its setting, and any special features of special architectural and historic interest which it possesses.

- 8.3. Section 16 of the Nation 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 historic asset, great weight should be given to the asset's conservation. Paragraph 197 states that, in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
- b) the positive contribution that conservation of heritage asses can make tot sustainable communities including their economic viability
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

- 8.4. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.

- 8.5. Public benefits from developments can 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
- 8.6. The Planning Practice Guide (PPG) and Historic England Advice Note 2 (HEAN2) Making Changes to Heritage Assets sets out how the policies of the NPPF are expected to be applied and includes guidance on the conservation of and making changes to the historic environment.
- 8.7. 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 that have the potential to affect a heritage asset or its setting will be required to demonstrate:
- a) an understanding of the significance of the heritage asset and its setting, and
  - b) the impact of the proposal on the significance of the asset and its setting
  - c) how the benefits of the proposal will outweigh any harm caused
  - d) any impact on archaeology in line with Policy DM13
- 8.8. Specifically, DM12 refers to Heritage Assets and development proposals affecting heritage assets and their settings. For Listed Buildings, development will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting, and the development ensures the significance of a conservation area is preserved and enhanced.
- 8.9. It is considered that the alterations to the use of the rooms and the creation of stud walls within the existing dwellinghouse element of The Old Forge are limited in extent and number, which ensures that the historic plan form of the house remains clearly discernible. The proposed internal works to the property ensure any significant historic fabric is retained in situ and the other interventions are sympathetic to the character of the building and its built form. Overall, it is regarded that the change of use of the dwellinghouse and the associated alterations required to facilitate the change of use and operation of the property as a hotel are compatible with the significance of the Listed Building.
- 8.10. The forge is capable of being worked and was occasionally in use up until the early 2020s when the house and forge were subsequently sold. As a consequence of this, it is considered that the proposal for the conversion of The Old Forge into a commercial use as a hotel is likely to represent the optimum viable use of the heritage asset. This is because the conversion is likely to lead to the investment in its maintenance that is necessary for The Old Forge's long-term conversion, which is as advised by the PPG. The general repairs assist the structural stability of the forge and improve the condition of its historic fabric. As advised by the Conservation Officer, these repairs are secured via a planning condition and are implemented prior to the occupation of the hotel and bar/lounge area.
- 8.11. The new use of the forge as a bar/lounge maintains the architectural interest of the Listed Building, such as its open plan and utilitarian design. The exterior walls and the volume of the room are largely unaffected. The revised proposal retains the two

hearth and the bellows, which are the key surviving features relating to ironworking and the former function of the forge. A glazed casing to partially enclose the free-standing hearth protects this feature and allows a functional use of the casing as part of the bar. As identified within the Retained Hearth Enclosure (P-070) (submitted: 28.11.2022), the casing is appropriately specified, and it is a reversible intervention if required.

- 8.12. The relocation of the drill press and the removal of the anvil benches reduces the ability to understand the historic function of the building. In spite of this, these features are not considered as crucial as those being retained in situ to allow for such understanding. The drill press is retained as a physical feature within the courtyard and is still capable of interpretation. As recommended by the Conservation Officer and LCC's Archaeologists, a planning condition for a programme of historic building recording is implemented to record the existing character and features within the forge. To summarise, it is considered that the works required to facilitate the change of use of the forge to a bar are compatible with the significance of the Listed Building.
- 8.13. The proposed works and conversion of the workshops associated to The Old Forge maintain the open plan form of these buildings and has no adverse impact upon any historic or significant fabric and therefore these alterations are compatible with the significance of the Listed Building.
- 8.14. The small L-shaped single storey extension to the northern end of the mid-20<sup>th</sup> century workshop is constructed with brick and clay tiles to match the external appearance of the existing workshops in form, colour and texture. A single door is required to provide access into the existing workshop; however, this is considered to result in a negligible loss of historic fabric. Therefore, this extension is considered to be compatible with the significance of the Listed Building and maintains the immediate setting to the north of the workshops.
- 8.15. The enclosed garden and the covered walkway are considered features of an appropriate scale and form that are constructed with traditional or sympathetic materials that respects the architectural interest of the rear elevation of the house and the forge and the side elevations of the workshops. The scheme also enhances the significance of the property by improving the existing chimney stacks, as identified, and requested within the MBCAA. As a result, these features are considered appropriate in character and appearance and are compatible with the significance of the Listed Building and maintain its immediate setting.
- 8.16. In conclusion, the proposed change of use of The Old Forge to an hotel is considered to represent its optimum viable use and is likely to lead to the investment in the heritage asset's maintenance that is necessary for its long-term conversion. The proposed internal works to the house, forge, and workshops to facilitate the change of use ensure that the majority of the significant historic fabric is retained in situ and that other interventions are sympathetic to the character and the history of the Listed Building and its built form. The extension to the north of the workshops and the creation of an enclosed garden are appropriately designed and sited to maintain the immediate setting of the Listed Building.
- 8.17. By virtue of these factors, it is considered that the proposal is compatible with the significance of the dwelling, the forge and the workshops that comprise the Listed Building known as The Old Forge at 13 – 15 Park Street, Market Bosworth. Therefore, the application is in accordance with: Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990; Section 16 of the NPPF;

Policies DM10, DM11 and DM12 of the SADMP; and National Planning Practise Guidance.

### **Equality implications**

- 8.1 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.
- 8.2 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.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 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).

### **9. Conclusion**

- 9.1 The proposal is compatible with the significance of the Listed Building known as The Old Forge at 13 – 15 Park Street, Market Bosworth and therefore the proposal complies with Policies DM11 and DM12 of the SADMP, Section 16 of the NPPF and the statutory duty of Sections 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

### **10. Recommendation**

- 10.1 **Grant Listed Building Consent** subject to:

- Conditions outlined at the end of this report

### **10.2 Conditions and Reasons**

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

**Reason:** To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of 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 received by the Local Planning Authority as follows:
  - Application Form (submitted: 12.10.2022)
  - Proposed Elevations (P-051\_E) (submitted: 28.11.2022)
  - Proposed Floor Plans (P-050\_E) (submitted: 28.11.2022)

- Retained Hearth Enclosure (P-070) (submitted: 28.11.2022)
- Site Location Plan, Drg No. TQRQM22136104625331 (submitted: 12.10.2022)
- Structural Report (submitted: 12.10.2022)
- Updated Agreed Schedule of Works (submitted: 28.11.2022)

**Reason:** To preserve the special interest of the building in accordance with the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in accordance with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. All new external and internal works and finishes and works of making good to the retained fabric shall match the existing work adjacent in respect of materials, methods, detailed execution and finished appearance.

**Reason:** To preserve the special interest of the building in accordance with the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in accordance Policies DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. There shall be no occupation of the bar/lounge area to be created pursuant to the planning permission 22/00473/FUL unless and until the repairs to the forge have been completed in accordance with the details approved in the Schedule of Works of this listed building consent.

**Reason:** To secure the enhancement of the listed building to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

5. 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 the land and structures that are 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 in accordance with Policies DM11, 12 and 13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

## 11. Notes to applicant



1. A separate consent may be required under the Town and Country Planning (Control of Advertisement) Regulations 2007 in respect of the display of advertisements on these premises. Advice may be sought from the Local Planning Authority.

This page is intentionally left blank

Planning Committee 20 December 2022  
Report of the Planning Manager (Development Management)

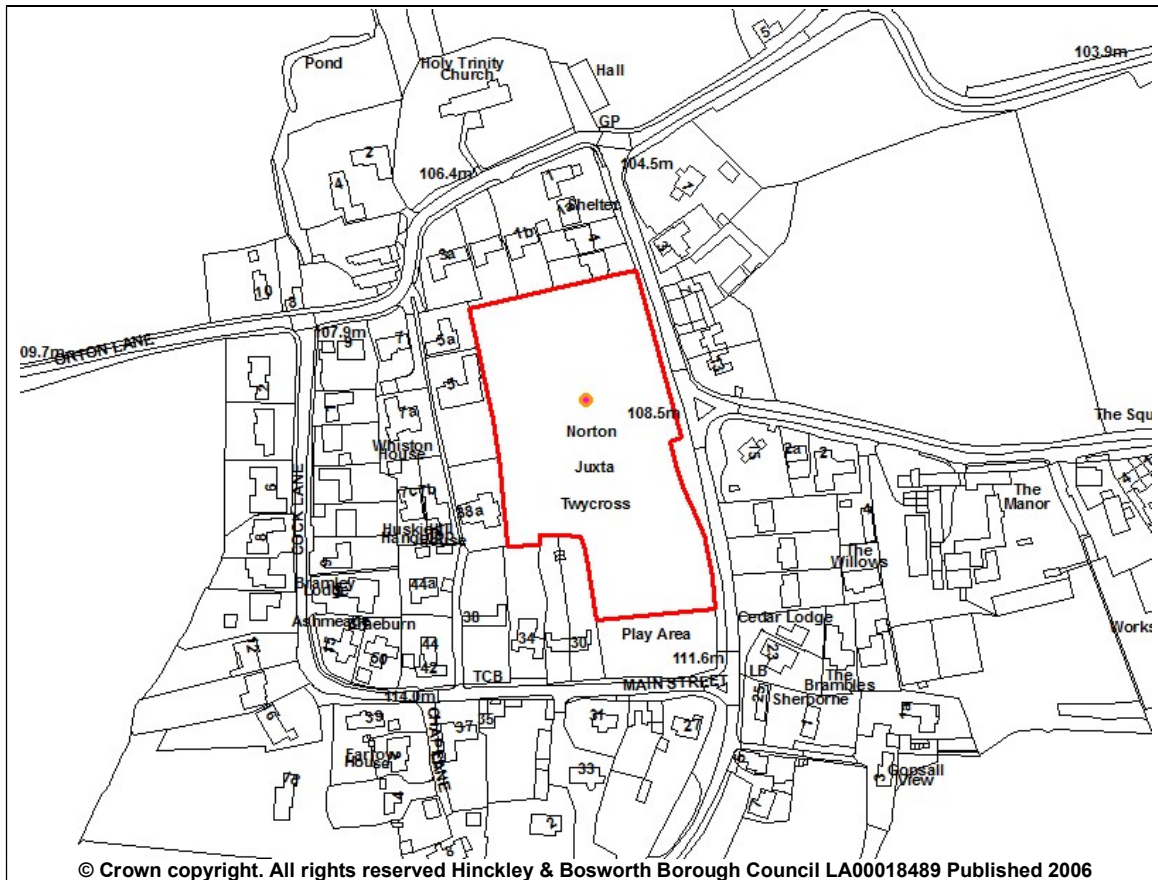
Planning Ref: 22/00503/FUL  
Applicant: Mr Andrew Cartwright  
Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth  
Borough Council

Site: Land West of Main Street Norton Juxta Twycross

Proposal: Erection of 8no. detached dwellings, with associated amenity space, landscaping, car parking and refuse/recycling facilities



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
  - A commuted sum of £367,812 for off-site affordable housing contribution;
  - Play and open space contribution of £7,768 for off-site equipped children's play space and maintenance;
  - Provision and future management and maintenance of on-site public 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. Planning Application Description**

- 2.1. This application seeks full planning permission for development of a vacant, formerly overgrown infill site to provide eight detached houses and associated garaging, on-site public open space in the form of a 'village green' type feature with attenuation basin and associated access and landscaping.
- 2.2. The scheme would provide a total of 8 x two-storey detached dwellings with associated garaging, hardstanding for parking and large private gardens. The mix includes 3 x 4 bedroomed dwellings, 4 x 5 bedroomed dwellings and 1 x 6 bedroomed dwelling. The dwellings would be served by a single vehicular cul-de-sac type access from Main Street connecting to a private drive, along with two pedestrian access points, one to Main Street and one to link to the existing public children's play area to the south.
- 2.3. The on-site public open space would occupy the eastern part of the site and incorporate a large pond within a surface water attenuation basin, trees, lawns and footpaths and retention of a majority of the existing boundary hedgerow.
- 2.4. A Design and Access Statement, Planning Statement, Phase II Geo Environmental Assessment, Arboricultural Method Statement, Written scheme of investigation for Archaeological Mitigation works, Landscape and Habitat Management Plan, Updated Ecological Appraisal have been submitted to support the application.

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

- 3.1. The application site is roughly rectangular in shape, measures approximately 1.19 hectares and occupies a central location within the settlement boundary of the rural hamlet of Norton Juxta Twycross immediately to the west of Main Street. It comprises an area of unused land that has recently been cleared of overgrown scrub which covered a majority of the site, although pockets of trees and spoil remain.
- 3.2. There is residential development surrounding the site to all sides except to part of the southern boundary where there is a public children's play area. The site is well enclosed to the east, south and most of the north boundary by mature hedgerows. The west boundary is less robust with a variety of sometimes sparse hedgerow, lower hedgerow and part timber fencing.
- 3.3. Community facilities within the hamlet include the Church of Holy Trinity which is a grade II\* listed building located approximately 90 metres north of the application site, a Village Hall adjacent to the churchyard, the aforementioned public children's play space and an employment site approximately 180 metres to the east on Wood Lane (Henton's Engineering).

## **4. Relevant Planning History**

### **18/00786/FUL**

- Erection of 8 dwellings, formation of a community open space, associated landscaping and access
- Planning Permission
- 01.04.2021

Planning permission was granted for the erection of 8 dwellings, formation of a community open space, associated landscaping and access on 1 April 2021 (application reference number 18/00786/FUL).

The differences between the approved scheme and the current scheme are set out in greater detail in Section 8 of the report.

## **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.

As a result of public consultation responses from 7 separate addresses have been received. The responses raise a number of objections and/or concerns on the following grounds:-

- 1) Overlooking of 1B Orton Lane from double height glazing panel and roof lights of Plot 2.
- 2) Overlooking of properties on Main Street from Plot 1
- 3) Loss of mature trees and bat roosts
- 4) Disproportionate size of the dwellings
- 5) Living space in roofs has increased the height of the dwellings
- 6) Gated access would prevent access to the community amenity space and to the site by delivery vehicles/visitors
- 7) Number of parking spaces equates to a potential doubling of traffic along Main Street.
- 8) The impact on sewerage and surface water management systems in the village has not been addressed
- 9) No information is provided on construction and materials access
- 10) Contamination is an issue
- 11) Re-drawing of the boundary between site and 30 Main Street
- 12) Annoyed that the updated Ecological Appraisal was only a 'walkover survey'
- 13) Potential for light pollution
- 14) Colour of render not in keeping
- 15) Pedestrian access off main street to plot 1 will encourage on road parking

## **6. Consultation**

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

- Leicestershire County Council (Highways)
- Leicestershire County Council (Archaeology)
- Leicestershire County Council (Ecology)
- Environmental Health (Drainage)
- Environmental Health (Pollution)
- Street Scene Services (Waste)

- 6.2. Twycross Parish Council notes that the design of the 8 new dwellings proposed off Main Street has changed and asks the Council to ensure that this does not adversely impact on those existing residents who live close to the site.

## **7. Policy**

- 7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets
- Policy 15: Affordable Housing
- Policy 19: Green Space and Play Provision

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

- Policy DM1: Presumption in Favour of Sustainable Development

- Policy DM3: Infrastructure and Delivery
  - Policy DM6: Enhancement of Biodiversity and Geological Interest
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM10: Development and Design
  - Policy DM11: Protecting and Enhancing the Historic Environment
  - Policy DM12: Heritage Assets
  - Policy DM13: Preserving the Borough's Archaeology
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
  - Planning Practice Guidance (PPG)
  - Planning (Listed Buildings and Conservation Areas) Act 1990
- 7.4. Other relevant guidance
- Affordable Housing SPD
  - Open Space and Recreational Facilities Study (2016)
- 8. Appraisal**
- 8.1. Key Issues
- Assessment against strategic planning policies
  - Impact on the setting of nearby listed buildings, other local heritage assets and archaeology
  - Design and impact upon the character of the area
  - Impact upon neighbouring residential amenity
  - Impact upon highway safety
  - Impact on drainage/flooding
  - Impact on biodiversity/ecology
  - Affordable housing and infrastructure contributions
  - Other issues
- Assessment against strategic planning policies
- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) 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 state that decisions should apply a presumption in favour of sustainable development and approve development proposals that accord with an up-to-date development plan without delay.
- 8.3. 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).
- 8.4. Policy 13 of the adopted Core Strategy identifies Norton Juxta Twycross as a rural hamlet. Rural hamlets generally have limited services and rely on surrounding larger settlements for a majority of everyday services and facilities.
- 8.5. The principle of the residential development of this site has already been established by the grant of planning permission 18/00786/FUL. This proposal predominantly incorporates changes to the proposed house types and associated layout and design changes.

- 8.6. The adopted SADMP does not identify any allocations for residential development for Norton Juxta Twycross however Policy 13 of the adopted Core Strategy does support housing development within the settlement boundaries of rural hamlets that provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16. Policy 16 imposes no housing density, mix and design requirements on developments of fewer than 10 homes. Policy 15 allows for affordable housing provision to be negotiated on a site-by-site basis, and allows for the Council to accept commuted sums in lieu of on-site affordable housing. The submitted Heads of Terms includes a financial contribution towards the provision of off-site affordable housing.
- 8.7. By virtue of its position within the settlement boundary of Norton Juxta Twycross and the small scale of development for only 8 new dwellings, the proposal would be in accordance with Policy 13 of the adopted Core Strategy and would not have any significant conflict with the spatial strategy for the Borough. Furthermore there is an extant planning permission for the development of 8 dwellings on the site approved under application 18/00786/FUL.
- Impact on the setting of nearby listed buildings, other local heritage assets and archaeology
- 8.8. In reaching a decision on this planning application it is important that Members consider the analysis undertaken by statutory consultees and officers in relation to heritage considerations and that Members have full regard to the statutory duties which are placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990, relevant adopted development plan policies and national guidance within Section 16 of the NPPF, as set out below.
- 8.9. 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's setting and any features of special architectural and historic interest which it possesses.
- 8.10. Section 16 of the NPPF provides national guidance on conserving and enhancing the historic environment. Paragraph 197 of the NPPF states that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset the greater the weight should be).
- 8.11. Policy DM11 of the adopted SADMP seeks to protect, conserve and enhance the historic environment. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate an understanding of the significance of the heritage asset and its setting, the impact of the proposal on the significance of the asset and its setting, how the benefits of the proposal will outweigh any harm caused and any impact on archaeology in line with Policy DM13.
- 8.12. Policy DM12 of the adopted SADMP requires that 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. Assets identified on the Locally Important Heritage Asset List should be retained and enhanced wherever possible. The significance of the assets illustrated in the List and the impact on this significance should be demonstrated and justified in line with Policy DM11.
- 8.13. Policy DM13 of the adopted SADMP states that where a proposal has the potential to impact a site of archaeological interest, an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.

Archaeology

- 8.14. The Historic Environment Record (HER) for Leicestershire indicates that the site lies within the historic medieval core of the hamlet, and that trial trenching (November 2018) has indicated that there are archaeological remains of medieval and later date on the site. A Written Scheme of Investigation (WSI) has been agreed with the County Archaeologist, and is submitted in support of this application.
- 8.15. The County Archaeologist advised that fieldwork outlined within the WSI has been completed, and the remaining 'programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material' remains outstanding. This could be secured by the imposition of a pre-commencement planning condition should the application be permitted.

Listed structures and non-designated local heritage assets

- 8.16. The Church of Holy Trinity is a grade II\* listed building and is located approximately 90 metres north of the application site. Within the churchyard are a pair of 13th to 14th century recumbent stone effigies and a stone chest tomb dating from 1808, all are listed at grade II. Approximately 100 metres north-west of the site is a grade II listed but vacant public house (known as The Moore's Arms) dating from mid to late-18th century.
- 8.17. A number of potential non-designated local heritage assets have also been identified including a farmhouse and complex of agricultural buildings (known as Manor Farm), approximately 100 metres to the east of the site, a number of pre-20<sup>th</sup> century historic buildings (Nos. 1, 9, 11-13, 29 and 38 Main Street) all within 100 metres of the site.
- 8.18. The impact of the proposed development on the setting of designated and non-designated heritage assets was a material consideration in the determination of planning application 18/00786/FUL, when it was concluded that the proposed development would make a neutral contribution to their significance.
- 8.19. The amended development now proposed, which mainly incorporates changes to the proposed house types with associated design and layout changes – is similarly considered to make a neutral contribution to the significance of these designated and non-designated heritage assets.
- 8.20. Visually the application site is obscured from the immediate setting of the grade II\* listed Church of Holy Trinity by a row of modern dormer bungalows with steeply pitched roof form. However, the tower and upper portion of the roof of the church are visible from various points within the application site, and it is likely that the site could be viewed from the church tower. As a result it is considered that the application site is located within the wider setting of the church.
- 8.21. By virtue of the site being within the wider context of mainly modern residential development, and the appropriate design and appearance proposed, the effect of the proposal when viewed from the church would not have an adverse impact on its significance. The site does not currently allow for public access so appreciation of the significance of the church from the site is limited. The provision of a new road and community open space will allow for a far greater public appreciation of the church with views being maintained through and over plots 1-3 from the community open space. Due to the siting, layout, and form of the development it is considered that the minor positive contribution the site makes to the significance of the church will be maintained and therefore the effect of the development on the significance of the church is considered to be neutral.
- 8.22. Visually the application site is obscured from the grade II listed Moore's Arms, the grade II listed effigies and chest tomb and the Manor Farm complex by existing



modern residential buildings and there are no known historic or other relationships between any of these buildings/structures and the application site. As a result it is considered that their settings do not include the application site and consequently the development proposal will not affect the special interest and significance of these listed and non-designated heritage assets.

- 8.23. Given their proximity to the application site the probable non-designated local heritage assets on Main Street all have a limited or slightly more unhindered visual relationship with the application site. As a result it is considered that the application site falls within their setting. However, there is no known evidence of any historical relationship or association between the application site and these local assets and views between are set within the context of, and severely compromised by existing modern development. The application site is therefore considered to make a neutral contribution to the significance of these probable local heritage assets.
- 8.24. As a result the proposal would comply with Policies DM11, DM12 and DM13 of the adopted SADMP, section 16 of the NPPF and the statutory duty of section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

Design and impact upon the character of the area

- 8.25 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.
- 8.26 The surrounding area is characterised by predominantly low density detached dwellings with a variety of scales, designs and styles and set within extensive plots. The proposed layout would provide eight detached dwellings arranged around the northern and western areas of the site and a public open space along the eastern side and extending to the southern boundary. The low density proposed would not be uncharacteristic of the density or plot sizes of dwellings in the immediate vicinity, unlike a more intensive development of more units, and would enable the provision of a large open space to serve the settlement, a significant public benefit. The main changes to the current scheme relate to Plot 8, which would change the most significantly from the approved plans in terms of its position and design. It would now provide a focal point at the end of the cul-de-sac. An 'L' shaped building is now proposed with the double garage replaced with a triple garage/double garage & gym.
- 8.27 The scheme would provide a mix of 4, 5 and 6 bedroom houses which reflects the mix of the nearby houses. They are a mix of 2 and 3 storey properties. The three storey house have rooms in the roof rather than a full third storey this keeping the overall scale comparable to a large two storey house.
- 8.28 The high quality designs provide a number of architectural features including pitched roofs, gable features and chimneys. Modern features such as gable windows, full height glazing and bi-fold doors would give the properties a modern twist. The scale and detailing of the gables would vary to provide a variety mix of styles. Details would also vary across the site with a mix of arched headers, soldier course and splayed soldier heads. Timber detailing to some gables would provide further variety. The mass of buildings is broken up with the differing styles and materials and the separation of the units into detached forms.
- 8.29 The proposed materials are a mix of two different red bricks, white render and cream render. This is designed to replicate the mix of finishes that are seen within the village. The roof finishes are a mix between slate and brown clay. Window finishes also vary

between the modern dark grey windows and more traditional cream or green painted timber. The mix of materials ensures that no two houses look the same. As no specific materials or samples have been provided, a condition to require their submission for prior approval could be imposed to ensure a satisfactory external appearance.

8.30 The scheme includes the provision of a large public open space within the site and the retention of the brick wall and strong hedgerows to the east and southern boundaries which provide significant screening of the site. A number of the larger more significant trees are also to be retained within the open space and the wider overall layout. The introduction of access points from Main Street and the existing public play area would enable the site to provide a community amenity facility. It is confirmed that it is intended that the public open space would be managed and maintained by a private management company. Whilst the proposed development would inevitably reduce the area of undeveloped land and change its character, subject to satisfactory landscaping and future management and maintenance of the public open space, the scheme would retain a degree of the undeveloped green character of a significant proportion of the site and would be publically accessible for the benefit of the occupiers of the wider settlement.

8.31 The scale and low density of the scheme would be sympathetic to the settlement. By virtue of the layout, scale, design and appearance of the scheme and subject to satisfactory landscaping retention and provision and future management and maintenance of the public open space, the proposal would complement the character of the surrounding area and be in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

8.32 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.

8.33 Objections to the proposal have been received on the grounds that the development would result in a loss of privacy from overlooking, overbearing/overshadowing impacts due to the height of the houses and loss of visual amenity.

8.34 The site is surrounded immediately by residential properties other than the public play and open space area to the part south of the site. The site has a higher ground level than Main Street to the east and ground levels rise from both east to west and north to south across the site.

8.35 Neighbours have raised concern that living space in roofs would increase the height of the dwellings and thereby would have impact on their amenity. However, the following table shows that only plot 2 and 4 would have higher ridge heights than the previously approved scheme. An additional 350mm height at the ridge is not considered to have significant impact on the neighbours. The eaves height of the main roofs are the same as the approved scheme.

	Previously Approved ridge height	Proposed ridge height
Plot 1	9.6m	9.542m
Plot 2	9.3m	9.63m
Plot 3	9.4m	8.955m

Plot 4	9.3m	9.652m
Plot 5	9.3m	8.754m
Plot 6	9.2	9.193m
Plot 7	9.2m	8.754m
Plot 8	9.2m	8.955m

- 8.36 Plot 1 would have no window above ground floor level (which will be screened by the boundary fence) over-looking The Glebe and, whilst it is intended to incorporate a cinema room and sixth bedroom within the roof void, light and ventilation to these rooms would be provided mainly by roof lights located on the front and rear elevations. Concern has been raised about overlooking of properties on Main Street from Plot 1. This plot is no closer to existing properties fronting onto Main Street than the approved dwelling and as such it would have no greater impact.
- 8.37 The footprint of Plot 2 is very similar to that already approved and includes a cinema room within the roof void. Windows have already been approved at first floor level facing onto 1b Orton Lane, with a dormer window serving bedroom 1, two windows serving bedroom 2 and one window serving bedroom 4. The proposed new house type retains the dormer window but replaces the two windows to what was bedroom 2, with a double inward opening glazed door with glazed side panels. A specific concern has been raised by the neighbour about potential overlooking of 1B Orton Lane from double height glazing panel and roof lights of Plot 2. However, Plot 2 is no closer to 1b Orton Lane than the dwelling previously approved. The first floor window feature serves a bedroom and the void above is a feature of the bedroom ceiling. There is no intention to fill this in to create additional storage space in the roof void. The rooflights would serve the cinema room and are unlikely to cause any loss of privacy.
- 8.38 The footprint of Plot 3 is very similar to that approved and includes a games room in the roof void above the garage and a cinema room and playroom in the roof void of the main house. The same number of openings are proposed at first floor level with the window to bedroom 1 replaced with a double inward opening glazed door with glazed side panels. The double inward opening double glazed doors shown to bedroom 1 on the previously approved plans has been omitted. There are not considered to be any impacts arising from the proposed changes to Plot 3 over and above those already approved.
- 8.39 The changes to Plot 4 include a cinema room and store within the roof void above the main house. The same number of openings are proposed at first floor level with the window to bedroom 1 replaced with a double inward opening glazed door with glazed side panels. There are not considered to be any impacts arising from the proposed changes to Plot 4 over and above those already approved.
- 8.40 The footprint of Plot 5 is not dissimilar to that approved but the integral double garage has been handed and positioned adjacent to Plot 4 instead of Plot 6. A shower room and games room have replaced the master bedroom approved above the garages. No residential accommodation is proposed in the roof void of the main house. A two-storey glazed panel is proposed to the rear elevation serving the dining area and master bedroom en-suite whilst the two windows serving what was bedroom 2 have been replaced with a double inward opening glazed door with glazed side panels.

The approved dormer window above the garage has been omitted. This dwelling has reduced from a 5 bedroomed dwelling to 4. There are not considered to be any impacts arising from the proposed changes to Plot 5 over and above those already approved.

- 8.41 The changes to Plot 6 include a cinema/games room and shower room in the roof void of the main house. The same number of openings are proposed at first floor level with the windows to bedroom 1 and 2 replaced with a double inward opening glazed doors with glazed side panels. An additional landing window has been added. There are not considered to be any impacts arising from the proposed changes to Plot 6 over and above those already approved.
- 8.42 The design and layout of Plot 7 is the same as Plot 5 but, whilst Plot 7 is rendered, Plot 5 is to be constructed of red facing brick. The changes to Plot 7 from the approved drawing include the handing of the garage – which is now adjacent to Plot 6 instead of Plot 8 – and the inclusion of a games room and shower room in the roof void above the garages. No accommodation is proposed in the roof void above the main dwelling. A two-storey glazed panel is proposed to the rear elevation serving the dining area and master bedroom en-suite, whilst the two windows serving what was bedroom 2 have been replaced with a double inward opening glazed door with glazed side panels. The approved dormer window above the garage has been omitted. This dwelling has reduced from a 5 bedroomed dwelling to 4. There are not considered to be any impacts arising from the proposed changes to Plot 7 over and above those already approved.
- 8.43 An 'L' shaped building is now proposed for plot 8 with the double garage replaced with a triple garage/double garage & gym. The proposed master bedroom above the garage is now replaced with a games room. A cinema room and play room are included within the main house roof void. This dwelling would reduce from a 5 bedroomed dwelling to 4. In terms of elevational changes, the catslide open canopy porch over the front door would be removed and two storey glazing incorporated to the entrance hall and first floor corridor. The chimney stack would be relocated from the rear elevation to the side and would reduce in height. An additional opening is included at first floor level serving bedroom 1 which consists of a double inward opening glazed doors with glazed side panels. Rooflights are included on the front, rear and side elevations. The proposed dwelling would move to the east, giving a greater separation distance from 30 Main Street.
- 8.44 Notwithstanding the objections received, by virtue of the layout, separation distances, levels, scale and design of the proposed scheme and subject to a condition to require appropriate boundary treatments to be retained/provided along the north and western boundaries of the site where appropriate, the scheme would not result in any significant adverse impacts on any neighbouring properties and would therefore be in accordance with Policy DM10 of the adopted SADMP.
- Impact upon highway safety
- 8.45 Policy DM17 of the adopted SADMP supports development that would be able to demonstrate that there would not be a significant adverse impact on highway safety, that there is convenient and safe access for walking and cycling to services and facilities and that proposals reflect the latest highway authority design standards. Policy DM18 requires new development to provide an appropriate level of parking provision taking into account the sites location, type of housing and other modes of transport available.
- 8.46 Objections to the scheme have been received on the grounds that it would be detrimental to highway and pedestrian safety by virtue of inadequate roads, footpaths

and junctions in and out of the village to serve additional development and that it would result in additional on-street parking and congestion.

- 8.47 The scheme would be served by a single vehicular access from Main Street. The access would have a width of 4.8 metres with 2 metre wide footways either side, achievable 2.4 metres x 43 metres visibility splays either side of the access junction, facilities for vehicle turning and would be constructed to an adoptable standard. By virtue of the design and construction the scheme would be provided with safe and satisfactory access to and from the site. Plots 5 – 8 inclusive would be served by a more informal shared surface private drive with reduced width.
- 8.48 Notwithstanding the width and rural nature of the roads into and from the settlement, the Local Highway Authority raise no objections on highway safety grounds and consider that the cumulative impacts of development for 8 new dwellings can be mitigated and would not be considered to be severe. LCC Highways have also confirmed that the proposed parking provision accords with Part 3, Paragraph 3.151 of the LHDG.
- 8.49 Concern has been raised by the neighbour that pedestrian access off main street to plot 1 will encourage on road parking. However, there are no objections or concerns raised by LCC Highways to the inclusion of a pedestrian access from Main Street into plot 1.
- 8.50 Concern has been raised that no information is provided on construction and materials access. It is usual practice to impose a planning condition requiring the submission and approval of a Construction Environmental Management Plan before development commences which would cover such matters. The principle of a CEMP condition is acceptable to the applicant.
- 8.51 Subject to the imposition of highway related conditions to ensure the provision of the proposed access, turning and parking arrangements, the scheme would not result in any significant adverse impacts on highway or pedestrian safety and would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

#### Drainage

- 8.52 Policy DM7 of the adopted SADMP seeks to ensure that development does not create or exacerbate flooding.
- 8.53 Objections to the proposal have been received on the grounds that the impact on sewerage and surface water management systems in the village has not been addressed.
- 8.54 The site is within Flood Zone 1 in an area of low risk of flooding where residential development is appropriate. The drainage strategy includes the use of infiltration drainage to mitigate the impact of an increase in the impermeable area of the site on surface water run-off and the layout includes a surface water attenuation basin. Foul drainage is proposed to be connected to the existing public sewer.
- 8.55 Environmental Health (Drainage) has assessed the submitted information and considers that the proposed drainage strategy is satisfactory at this stage. The imposition of a condition to require the submission of a more detailed sustainable surface water drainage system in accordance with the submitted drainage strategy for prior approval, would be reasonable and necessary to ensure that the scheme would not result in the creation or exacerbation of flooding and would be in accordance with Policy DM7 of the adopted SADMP. The disposal of foul drainage from the site to the existing public sewer would be subject to separate Building Regulations and water company approval.

#### Biodiversity/Ecology

- 8.56 Policy DM6 of the adopted SADMP requires that development proposals demonstrate how they conserve and enhance features of nature conservation value.
- 8.57 Objections to the proposal have been received on the grounds that the updated Ecological Appraisal was only a 'walkover survey'.
- 8.58 A walkover survey of the site has been carried out in accordance with standard Phase 1 Habitat Survey methodology detailed within the JNCC Phase 1 Habitat Survey Handbook. The survey covered all accessible areas of the site and surrounding habitats. This survey sought to identify, describe and map habitats present within the site. The term 'walkover' should not be construed as meaning that a thorough survey has not been undertaken. Leicestershire County Council (Ecology) have assessed the information submitted and consider that the survey/reports are satisfactory.
- 8.59 A biodiversity enhancement strategy for the Site has been developed. The strategy includes soft landscaping and biodiversity enhancement features post development, as set out below:
- Creation of Priority Habitats (Section (41) NERC 2006) namely an attenuation pond which has been designed to ensure a sufficient depth to retain water all year round that will be sensitively landscaped to maximise biodiversity value;
  - Significant length of native species rich hedgerow will be created;
  - Native wildflower grassland mix;
  - Areas of mixed native tree and shrub planting will be provided throughout the layout;
  - Reptile hibernaculum, hedgehog highways; and
  - 10 bird/nest boxes; 6 bat boxes; and 2 bee posts
- 8.60 Whilst Leicestershire County Council (Ecology) has no objection to the proposal on biodiversity grounds, they have requested a biodiversity net-gain (BNG) assessment be submitted. However, the applicant considers that a BNG assessment is not necessary as the significant biodiversity value provided through the inclusion of ecological features such as a reptile hibernaculum, hedgehog highways as well as bat and bird boxes are not taken into account within the BIA metric calculation tool. Policy DM6 of the SADMP or paragraph 108(d) of the NPPF do not require a DEFRA BNG calculation (Metric Version 3.1) to be able to demonstrate a BNG net gain calculation as requested by the LCC Ecologist. Taking into account the level of biodiversity enhancements proposed and scale of the development, it is not considered that a BNG assessment is required in this instance.
- 8.61 In comparing the submitted Site Layout and the Tree Assessment, the layout would enable the retention of a majority of the existing trees within the site and around the perimeter. Whilst a Tree Protection Plan has been submitted it is not considered adequate and an updated Tree/Hedgerow protection plan is required with detail protection strategy. This could be secured by a planning condition in the event that the application is approved.
- 8.62 Objection has been received regarding loss of mature trees. It should be noted that the site is not covered by a TPO and the Council's Tree Officer has no comments to make on the application. Seven trees would be lost as a result of the layout, including two trees of categorised as being moderate in quality. However, by virtue of the low density of development proposed, the site provides ample opportunity for mitigation of any losses through replacement planting in and around the large area of open space. A comprehensive landscape plan has been submitted in support of the application which show the provision of replacement planting. It is intended that the open space would be managed and maintained in the future through a private management company and such provision could be secured through the completion

of an appropriate section 106 planning obligation in the event that the application is approved.

#### Affordable housing

- 8.63 Policy 15 of the adopted Core Strategy requires the provision of 40% affordable housing on sites of 4 dwellings or more or on sites measuring 0.13 hectares or more in rural areas. The Affordable Housing SPD states that off-site provision or commuted sum contributions may also be acceptable alternatives in exceptional circumstances including instances where such provision would better meet the locally identified priority housing need. The SPD also provides a method for the calculation of commuted sums for off-site affordable housing.
- 8.64 The NPPF in paragraph 64 states that affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). For housing, this is defined in the NPPF Annex 2 as being development of 10 or more dwellings or where the site has an area of 0.5 hectares or more. This is reflected in the updated Planning Practice Guidance notes.
- 8.65 In this case, the site area is in excess of 0.5 hectares and therefore is a major development. The applicant proposes a sum of £367,812 as a commuted sum for an off-site affordable housing contribution. This is in line with the adopted SPD.
- 8.66 By virtue of the lack of everyday services and facilities within Norton Juxta Twycross, it is considered that a commuted sum for off-site affordable housing in a more sustainable location would better meet local need in this case and would therefore be acceptable in principle. The contribution could be secured through the completion of an appropriate section 106 planning obligation in the event that the application is approved.

#### Infrastructure contributions

- 8.67 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.
- 8.68 The request for any planning obligations (infrastructure contributions) must be considered against the requirements contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations require that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 8.69 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. The Open Space and Recreation Study (2016) provides further advice on the facilities at each designated public open space.
- 8.70 The proposed layout includes a new link to the existing amenity green space and children's equipped play area (identified as NOR03) immediately to the south. The quality standard of the space is assessed as only 58% and therefore the space falls below the target standard of 80%. A lack of access to provision for younger people is identified.
- 8.71 In order to mitigate the impact of additional users of the play and open space and recreation facilities as a result of the proposed development, a contribution of £7,768 (provision plus maintenance) has been identified using the figures provided in the

Open Space and Recreation Study. This could be used towards a scheme aimed at improving the quality standard of the site and the range of facilities provided.

- 8.72 The infrastructure contribution identified above is considered 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 and therefore CIL compliant. The contribution could be secured through the completion of a suitable section 106 planning obligation if supported by the currently outstanding commuted sum assessment, the outcome which will be reported as a late item to this agenda.

Other issues

- 8.73 A neighbour has raised concern about redrawing of the boundary between the proposed site and 30 Main Street. The applicant has no intention to redraw the position of the existing boundary between the site and 30 Main Street. The topographical survey submitted in support of the application is the same plan previously approved.
- 8.74 An objection has been received in respect of the contamination of the site. It is acknowledged that remediation of the site is required, HBBC ES Pollution have recommended approval of the application subject to planning conditions related to the scheme for the remediation of land contamination and gas protection measures, which are acceptable to the Applicant.
- 8.75 Concern has been raised that the gated access would prevent access to the community amenity space and to the site by delivery vehicles/visitors. There are two pedestrian access points into the community amenity space. The first is opposite 15 Main Street and the second is off the new site access road before the access gates. The access gates are sufficiently set back from the highway boundary to allow delivery vehicles and visitors to park off the highway whilst gaining access. Access to the community amenity space and to the site by delivery vehicles/visitors is acceptable.

## **9. Equality Implications**

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



family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Conclusion**

- 10.1. The principle of the residential development of this site has already been established by granting 18/00786/FUL planning permission. This proposal predominantly incorporates changes to the proposed house types and associated layout and design changes.
- 10.2. By virtue of separation distances and existing modern development around the application site, the scheme would have a neutral impact on the settings of listed buildings and other potential local heritage assets in the vicinity of the site. Further archaeological works could be secured by condition.
- 10.3. By virtue of the layout, low density, scale, design and subject to secure details of external materials the proposed scheme would complement the character of the surrounding area.
- 10.4. By virtue of relative levels and separation distances and subject to appropriate boundary treatments and window restrictions where necessary, the scheme would not result in any significant or unacceptable adverse impacts on the privacy or amenity of the occupiers of any neighbouring properties.
- 10.5. Safe and satisfactory access to the site and adequate off-street parking provision can be provided to serve the development. Conditions can be imposed to secure satisfactory surface water drainage and protection and enhancement of biodiversity/landscaping within the site.
- 10.6. Off-site affordable housing contribution, play and open space contribution and future management and maintenance of the proposed open space for the public benefit of the wider settlement can be secured through the completion of a suitable section 106 planning obligation.
- 10.7. The proposal would be in accordance with Policies 13, 15 and 19 of the adopted Core Strategy, Policies DM1, DM3, DM6, DM7, DM10, DM11, DM12, DM13, DM17 and DM18 of the adopted SADMP, the overarching principles of the NPPF and the statutory duty of section 66 of the Planning (Listed Building and Conservation Areas) Act 1990. Notwithstanding the objections received, the proposal is considered to be sustainable development and therefore recommended for approval subject to conditions and the completion of a suitable section 106 planning obligation.

## **11. Recommendation**

- 11.1. **Grant planning permission** subject to:
  - The prior completion of a S106 agreement to secure the following obligations:
    - Subject to the outcome of the independent commuted sum assessment, a commuted sum of £367,812 for off-site affordable housing contribution;
    - Play and open space contribution of £7,768 for off-site equipped children's play space;
    - Provision and future management and maintenance of on-site public open space
  - 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. That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

#### 11.4. Conditions and Reasons

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

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

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Proposed Block Plan Drawing No. 13a; Proposed Site Plan Dwg No. 21-132 02c; Floor Plan and Elevations - Plot 1 Dwg No. 21-132 03a; Floor Plan and Elevations - Plot 2 Dwg No. 21-132 04b; Floor Plan and Elevations - Plot 3 Dwg No. 21-132 05b; Floor Plan and Elevations - Plot 4 Dwg No. 21-132 08a; Floor Plan and Elevations - Plot 5 Dwg No. 21-132 09a; Floor Plan and Elevations - Plot 6 Dwg No. 21-132 07b; Floor Plan and Elevations - Plot 7 Dwg No. 21-132 10a; Floor Plan and Elevations - Plot 8 Dwg No. 21-132 11a received by the local planning authority on 24/05/2022.

**Reason:** To define the permission and ensure satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No demolition/development shall take place/commence until the programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material has been fulfilled in accordance with the written scheme of investigation (WSI) submitted 24/05/2022 (MOLA Norton Juxta Twycross agreed WSI).

**Reason:** To ensure satisfactory archaeological investigation and recording in accordance with Policies DM11 and DM13 of the adopted SADMP and section 16 of the National Planning Policy Framework (2019).

4. Notwithstanding with Tree Protection Plan 11378 TCP 01, before any development is commenced on site, including site works of any description, a Tree and Hedgerow Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details and maintained as such at all times for the duration of the construction phase.

**Reason:** To ensure that existing trees and hedgerows on the site that are to be retained are adequately protected before and during construction in the interests of visual amenity and biodiversity in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No development shall commence on site until surface water drainage details, incorporating sustainable drainage principles (SuDS) has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** To ensure that the development is provided with a satisfactory means of surface water drainage to prevent flooding and minimise the risk of pollution by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Prior to first occupation of any of the dwellings hereby permitted, full 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. The system shall subsequently be maintained in accordance with the approved details at all times thereafter.

**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 surface water drainage system within the proposed development to accord with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No development shall take place on site until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
- i. proposed finished levels or contours
  - ii. hard surfacing materials
  - iii. retained trees and hedgerows
  - iv. planting plans
  - v. written specifications
  - vi. schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - vii. implementation programme.

The landscaping scheme shall be carried out in accordance with the approved details and shall thereafter be managed and maintained in accordance with the Landscape Management and Maintenance Plan to be approved under condition 8 of this planning permission at all times thereafter.

**Reason:** To enhance the appearance of the development and biodiversity of the site in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Prior to the first occupation of any of the dwellings hereby permitted, a landscape management and maintenance plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority. The management and maintenance of the public open space hereby permitted shall thereafter be carried out in accordance with the approved details.

**Reason:** To conserve and enhance features of nature conservation within the site and in the interests of visual amenity in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No development shall commence on site until such time as full details of all boundary treatments including walls, fencing and hedgerows have been submitted to and approved in writing by the local planning authority and the scheme shall be implemented and thereafter maintained in accordance with the approved details prior to the first occupation of each of the dwellings hereby permitted.

**Reason:** To protect the privacy and amenity of neighbouring properties and the future occupiers of the site in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. The development hereby permitted shall be implemented in accordance with the biodiversity enhancement strategy for the site (Dwg no: 197 044 PL01).

**Reason:** To ensure appropriate conservation and protection of biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. No development above foundation level of any of the dwellings hereby permitted shall take place until representative samples of the types and colours of materials to be used on the external elevations of the dwellings 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 to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on PRP drawing number 82326-110 Rev P2 have been implemented in full.

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

13. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 43 metres by 2.4 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. No part of the development hereby permitted shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of each access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained at all times thereafter.

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

15. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the

Drawing No. 21/132 02C. Thereafter the on-site parking provision shall be so maintained at all times thereafter.

**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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

16. Notwithstanding the submitted details, prior to first occupation of Plot 3 hereby permitted, the first floor window serving the en-suite bathroom on the west elevation shall be non-opening and shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington Scale. Once so provided the window shall be permanently maintained as such at all times thereafter.

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

18. The scheme for the remediation of land contamination and gas protection measures recommended in the Phase II geo-environmental assessment carried out by Georisk Management (Report No: 21278/1 Date: January 2022) shall be implemented in accordance with the agreed details and shall be carried out prior to the site first being occupied.

**Reason:** To ensure that any contamination is dealt with appropriately to protect the amenity of the future occupiers of the site and to mitigate any risks to water quality in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

**Reason:** To ensure that any contamination identified during development of the site is dealt with appropriately to protect the amenity of the future occupiers of the site and to mitigate any risks to water quality in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

20. No development shall take place until a scheme that makes provision for waste and recycling storage 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 adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented prior to first occupation of the development.

**Reason:** To ensure that the proposed development provides adequate and accessible waste and recycling collection across the site, that would not affect the amenities of neighbouring and future occupants of the site to accord with

Policy DM10 of the Site Allocations and Development Management Policies DPD (2016).

21. Prior to 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.

**Reason:** To safeguard the residential amenity of the occupiers of neighbouring dwellings from potential noise, vibration and disturbance etc. in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

22. Site preparation and construction works shall be limited to the following hours: Mondays to Fridays between 07.30am to 18.00pm; Saturdays between 08.00am to 13.00pm and at no time on Sundays and Bank Holidays.

**Reason:** To safeguard the residential amenity of the occupiers of neighbouring dwellings from potential noise, vibration and disturbance etc. in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

#### 11.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto: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](http://www.planningportal.gov.uk)
3. 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>.
4. Where soakaway drainage is initially proposed, the suitability of the ground strata for infiltration should be ascertained by means of the test described in BRE Digest 365, and the results submitted to the local planning authority and approved by the Building Control Surveyor before development is commenced. If the ground strata proves to be unsuitable for infiltration, alternative SuDS proposals will require the further approval of the local planning authority before the condition can be discharged.

6. Severn Trent Water advise that although their 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 Sewers Regulations (2011). Public sewers have statutory protection and may not be built close to, directly over or diverted without separate consent. You are advised to contact Severn Trent Water Limited to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

This page is intentionally left blank



Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager (Development Management)

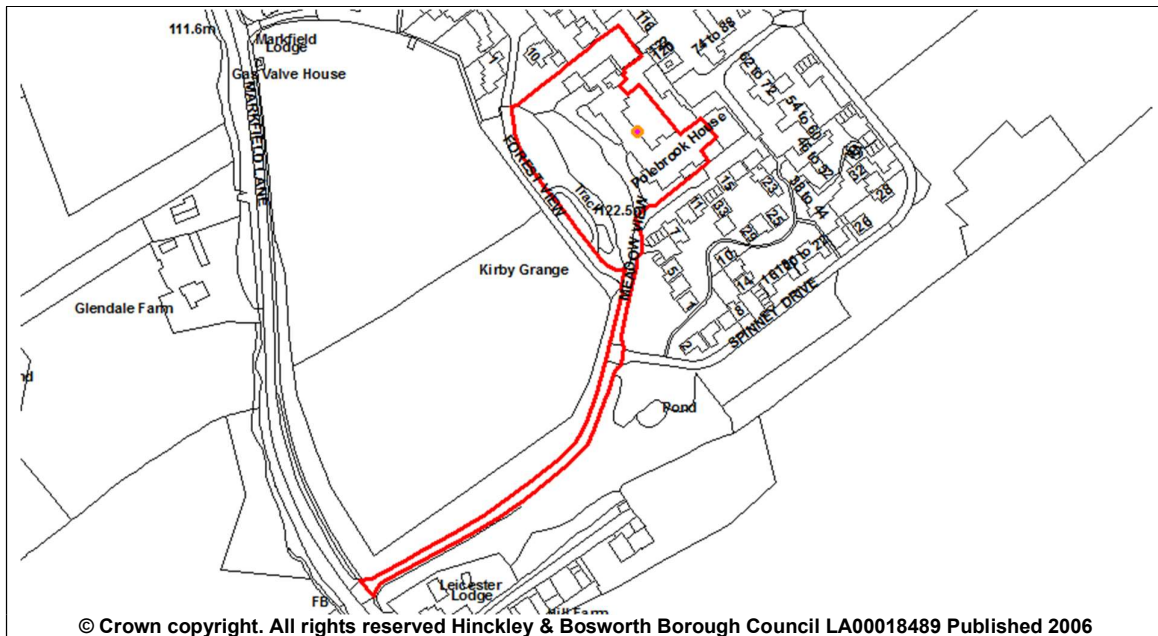
Planning Ref: 21/01331/FUL  
Applicant: Mr Geoff Butcher  
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth  
Borough Council

Site: Kirby Grange Residential Home Spinney Drive Botcheston

**Proposal: Refurbishment and extension of the existing Polebrook House including demolitions, two storey extensions and landscaping works to extend the residential care home (C2) by 51 bedrooms**



## 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. The proposal is for the refurbishment and extension of Polebrook House to provide an additional 51 en-suite care bedrooms with ancillary social accommodation adjacent to the existing care home at Kirby Grange. This includes the demolition of workshops and minor elements of Polebrook House and three extensions to the building, being at each side and on the rear elevations. Access to the front of the building would be reinstated and an additional car parking area provided.
- 2.2. The application was brought to the committee on 25<sup>th</sup> October but deferred for further amendments. Since then amended plans have been received to address the following concerns:

- An additional five car parking bays are provided, bringing the new total to 31 spaces, including two disabled parking spaces.
  - Extension C adjacent to existing properties on Forest View has had the proposed footprint length reduced by 4.8m and the roof height lowered by 1.85m. This has been achieved through an internal level change of 1.4m in the link with the existing building, and amendments to the roof design.
  - The previously proposed first floor roof garden has been removed and all windows in the north east elevation facing Forest View have been reviewed to avoid overlooking and loss of privacy to neighbouring properties.
  - Additional landscaping along the south western boundary is provided and a one way system for the car park introduced.
- 2.3. The care home currently has 27 bedrooms and employs 16 staff (over the day and night shift). Following the proposed development this would increase by 51 bedrooms and a further 22 staff. Six of the additional employees would cover the night shift. Staff accommodation and facilities would be provided at second floor level.
- 2.4. Extensions A and C to Polebrook House have a traditional design, constructed of brick with a tiled hipped roof. The care accommodation is over two levels with links to the existing buildings. Extension B to the rear is also over two levels, but has a more contemporary design with a flat roof, grey cladding and curtain walling.
- 2.5. An Arboricultural report has been provided which details the quality of the existing trees on the site, most of which lie to the front of Polebrook House adjacent to the car park. These trees are subject to a group Tree Preservation Order. Several trees would be removed adjacent to the front access drive and Extension C. Additional trees and soft landscaping are proposed, on the boundary with the bungalows in Forest View and adjacent to the car park.

### **3. Description of the site and surrounding area**

- 3.1. Kirby Grange is a retirement village and care home in the countryside to the north east of Botcheston village and within the Parish of Desford. Polebrook House sits adjacent to the existing nursing home and comprises a large two and three storey building constructed in the 1880s as a school. It is currently in a poor state of repair and largely vacant.
- 3.2. The building is considered to be a non-designated heritage asset due to its historical and architectural interest. It has an impressive design with a number of brick towers, one massive tower having decorative banding, piers and corbelling, the use of circular Norman arches for openings including a bold entrance porch set with decorative brickwork, a clay tile roof, large chimney stacks, hipped dormers, the use of finials and a clock set within a central gabled bay.
- 3.3. Since the existing care home has become established, the area around it and Polebrook House has been developed with retirement bungalows through a network of private roads accessed from Markfield Lane.

### **4. Relevant planning history**

#### **00/00855/COU**

- Conversion and alteration of workshop to form additional accommodation to residential home
- Permitted but not implanted.
- 13.11.2000

**90/01089/4**

- Extension to Nursing Home
- Permitted
- 23.04.1991

**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. Objections received from and on behalf of nine local residents. These can be summarised on the following grounds:
- 1) Loss of light and privacy
  - 2) Loss of trees
  - 3) Increased traffic and insufficient parking provision
  - 4) Loss of wildlife and habitat
  - 5) Materials and design not in keeping
  - 6) Not a sustainable location for development
- 5.3. Kirby Grange Village Association has requested a contribution towards the maintenance of the shared private roads from the developers / operators of the new care facility.

**6. Consultation**

- 6.1. Objection from Desford Parish Council on grounds that the proposal results in over-shadowing / overlooking of adjacent properties in Forest View and there is insufficient parking.
- 6.2. Objection from the Council's Arboricultural Officer due to the removal of the T15 oak which is of category A importance, to facilitate the proposed extension C.
- 6.3. National Forest Company comment that the plans do not consider National Forest Strategy design requirements or National Forest Planting as required by Policy 21 of the Hinckley and Bosworth Core Strategy
- 6.4. No objections from:
- HBBC Waste
  - HBBC Drainage
  - Conservation Officer
  - LCC Lead Local Flood Authority (following receipt of further information)
- 6.5. No objections subject to standard conditions from:
- HBBC Environmental Services
  - LCC Highways

- LCC Ecology
- LCC Archaeology
- Severn Trent

## **7. Policy**

### **7.1. Desford Neighbourhood Plan 2018-2036**

- Policy H5: Housing Mix
- Policy H7: Housing Design
- Policy ENV3: Biodiversity
- Policy ENV 5: Local Heritage Assets

### **7.2. Core Strategy (2009)**

- Policy 21: National Forest
- Policy 22: Charnwood Forest

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

### **7.4. National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

### **7.5. Other relevant guidance**

- Good Design Guide Supplementary Planning Document (SPD) (2020)
- 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
- Heritage assets
- The Natural Environment

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 Site Allocations and Development Management Policies DPD (2016) and the Desford Neighbourhood Plan (2021).
- 8.3 Policy DM4 of the SADMP states that to protect the intrinsic value, beauty, open character and landscape character, the countryside will be safeguarded from unsustainable development. DM4(b&c) identifies the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting and development which significantly contributes to economic growth, job creation and/or diversification of rural business as sustainable development. This is subject to the proviso that it would not have a significant adverse effect or does not undermine the physical and perceived separation and open character between settlements.
- 8.4 Policy H5 of the Desford Neighbourhood Plan (NP) supports the provision of homes for older people including single level living and a supported living complex.
- 8.5 Although the site lies within the open countryside, it is considered that the refurbishment and re-use of Polebrook House complies with Policy DM4 of the SADMP in principle, subject to detailed design, environmental and heritage matters which are discussed below. The proposed extensions are of a scale that would not undermine the physical or perceived separation and open character between settlements. Therefore, the proposal accords with the principle of Policy DM4 of the SADMP and complies with Policy H5 of the Desford NP.

#### Design and impact upon the character of the area

- 8.6 Policy DM10 of the SADMP indicates that development will be permitted providing it meets good standards of design including that it would complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.7 The Good Design Guide SPD outlines that extensions to existing buildings should be subordinate and be an appropriate height, width, depth and complement the detailing and materials of the existing building.
- 8.8 Policy H7 of the Desford NP requires new development to reinforce local distinctiveness and character of the area.
- 8.9 Extensions A and C are considered to be subservient to the existing building and reflect its traditional Victorian design and scale, incorporating brick, hipped roofs, traditional detailing such as feature detailing around the windows and a vertical emphasis to window design. Extension B is a more lightweight modern structure which provides a visual link to the existing care home and addresses the changing levels on the site. Its lightweight design provides an interesting contrast and allows the existing rear elevation of Polebrook House to continue to be appreciated. Both traditional and modern elements are sympathetic in scale and massing with the original building and complement its appearance.
- 8.10 Overall, the extensions would sit well in their context adjacent to both the traditional form of Polebrook House and the more modern surrounding buildings nearby. A condition is proposed requiring the submission of samples of external facing materials and roof tiles.

- 8.11 The proposal is considered to comply with the requirements of Policy DM10 of the SADMP, Policy H7 of the NP and the adopted SPD Good Design Guide.
- Impact upon neighbouring residential amenity
- 8.12 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 occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.13 The Good Design Guide also provides guidance on the assessment of residential amenity.
- 8.14 Extensions A and B are located to the north east and south east of the building facing the existing care home and Meadow View respectively. These elements would not have an adverse impact on neighbouring residential amenity due to their distance and orientation.
- 8.15 Extension C lies to the north west, replacing the existing workshop building adjacent to the bungalows in Forest View. The ground levels in this area are generally higher than the adjacent properties. The workshop building to be demolished is single storey with a steeply pitched hipped roof. By comparison, Extension C has two stories but with a shallow pitched / flat topped roof as shown on the amended plans. The proposal will therefore alter the current outlook from the nearest dwellings, being 9 and 10 Forest View.
- 8.16 Extension C is set off the boundary approximately 5m and at its closest point is 16.3m to the rear wall of number 10 and 7.3m to the side (non principal) elevation of number 9 Forest View. This complies with the distance recommended in the Council's adopted Design Guidance which advises 14m between solid walls and principal windows in order to avoid undue overbearing and loss of light. Whilst number 10 is known to have a rear conservatory which is necessarily closer, this is by its nature a largely glazed structure with multiple light sources. In addition, the amended plans have reduced the overlap of extension C with the rear garden of number 10 Forest View and have also reduced the height and mass of the structure overall. It is therefore more comparable to the existing workshop building and does not extend any closer to the boundary with number 10. On balance, the proposed extension is not considered to have a significant adverse impact on neighbouring residential amenity in terms of loss of light or outlook.
- 8.17 In terms of privacy, the facing elevation of extension C has no ground floor or first floor windows facing the rear garden of number 10 Forest View. All first floor windows on this elevation are projecting side viewing bay windows or fitted with privacy glazing. Additional landscaping is proposed on this boundary and between the car parking area and number 1 Forest View which is secured through a condition. A condition also requires details of boundary treatments at ground level. Subject to conditions, the privacy of the nearby dwellings on Forest View can therefore be safeguarded.
- 8.18 In general terms, residential amenity is further safeguarded by conditions relating to lighting and noise, including details of mechanical ventilation etc. as required by the Environmental Protection Officer. A condition restricting hours of construction and the submission of a Construction Management Plan prior to commencement of the development is also proposed.

- 8.19 Overall, subject to conditions the proposal complies with the requirements of Policy DM10 of the SADMP and the adopted SPD in terms of safeguarding the residential amenity of neighbouring dwellings.

Impact upon highway safety

- 8.20 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. Paragraph 111 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.
- 8.21 Access to the site is proposed via a network of private un-adopted roads and no new access points are proposed. One of these, Meadow View, connects to the public highway at the junction with Markfield Lane which is a C classified road subject to a 40mph speed limit. Parking provision of 29 spaces and 2 disabled spaces is proposed as part of the new development.
- 8.22 The applicant has submitted a Transport Statement in support of the proposals. Data provided suggests that the new development would generate 7 two way vehicle movements during the AM peak and 5 in the PM peak. The Local Highway Authority (LHA) have advised that slightly higher trip rates have been accepted for similar development elsewhere and could also be generated in view of the rural location, but that the proposals are unlikely to result in a material increase in traffic at the junction of Meadow Lane with Markfield Lane. Therefore, the LHA have no objections to the application on grounds of highway safety.
- 8.23 Based on the requirement within the Leicestershire Highways Design Guide for a residential home for the elderly with communal facilities, one car space per four bedrooms, plus one car space for each staff member is required. A total of 29 car parking spaces would be required as a result of the new development. The amended plans address the previous shortfall of 5 spaces. Based on the same requirement there is a shortfall of 8 spaces for the existing care home within the existing car park.
- 8.24 The LHA has stated that the site is situated a considerable distance from the public highway and they consider it unlikely that the development would lead to on-street parking along Markfield Lane. Therefore they have no objections to the proposal on this basis.
- 8.25 Kirby Grange Village Association have requested financial support for the maintenance of the private roads in the area from the developer. This would be an essentially private agreement and it would not be appropriate to require this through a planning obligation, as it is not necessary to make the proposal acceptable in planning terms. However, discussions have taken place between the developer and the residents group / freeholders of Kirby Grange regarding addressing possible damage which may be incurred due to additional traffic during the various phases of the proposed development of Polebrook House. This can be addressed through the process of satisfying the proposed planning condition requiring a Construction Method Statement. It is likely that an independent surveyor would report on the existing state of the access road and at regular stages, with the appointed building contractor taking responsibility for repairing any issues.
- 8.26 There are therefore insufficient grounds for refusal of the application based on an adverse impact on highway safety or insufficient parking. Subject to the conditions requested by the LHA relating to a construction traffic management plan and the

completion of the parking provision prior to occupation of the new development, the proposal complies with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

#### Drainage

- 8.27 Policy DM7 states that development should not create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against.
- 8.28 Policy DM7 states that adverse impacts from pollution and flooding will be prevented by ensuring that development proposals will not adversely impact on water quality, ecological value or drainage function, avoid obtrusive light intrusion, noise pollution and air quality and should not create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against. Appropriate containment solutions for possible contaminants and remediation of contaminated land in line with minimum national standards should be undertaken.
- 8.29 The site is within Flood Zone 1 (low risk) and has provided a drainage strategy to the satisfaction of the Lead Local Flood Authority. At the request of Severn Trent a detailed foul and surface water drainage scheme is required as a condition of any permission, prior to the commencement of the development. Conditions are also proposed relating to the submission of a contaminated land assessment.
- 8.30 Subject to conditions the proposed development would not have adverse implications on flood risk or contamination and accords with Policy DM7 of the SADMP.

#### Heritage Assets

- 8.31 Policies DM11 and DM12 of the SADMP seek to protect and enhance the Historic Environment through the requirement to demonstrate an understanding of the significance of the heritage asset and its setting and an assessment of the impact of the proposal on the significance of the asset has been carried out. Where there is harm to the significance this must be outweighed by benefits.
- 8.32 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.
- 8.33 Policy ENV5 of the Desford Neighbourhood Plan states that proposals that affect an identified building or structure of local significance or its setting will be required to preserve and enhance the significance and setting of that heritage asset.
- 8.34 Although Polebrook House is not a listed building, it is considered to be a non-designated heritage asset and is identified as a building of local interest within the Desford Neighbourhood Plan. Paragraph 203 of the National Planning Policy Framework (NPPF) requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account and a balanced judgement taken having regard to the scale of any harm or loss of significance of the heritage asset. Furthermore, paragraph 197 of the NPPF advises that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- 8.35 In this instance the building is in some disrepair and its re-use would safeguard the future of the non-designated heritage asset. Whilst the workshops in the north west corner of the site are to be demolished and replaced with a two storey extension, this is considered to be acceptable in principle. Due to the poor physical condition of



the workshops a viable conversion is not possible and the workshops are of lesser significance compared to the main building. The demolition of a modern sports hall to the south east of the building similarly would similarly not harm the significance of the heritage asset.

- 8.36 The alterations to the main building comprising the lowering of some window cills ensures that the windows and surrounds remain traditional in their appearance and proportions. The proposed extensions are subservient in scale and ensure the dominance of the adjacent tower structure which is a particular feature of the building remains clear. The Conservation Officer considers the proposal would preserve the significance of the building and would put the asset into a viable use consistent with its long-term conservation. The proposal would therefore comply with paragraphs 197 and 203 of the NPPF, Policies DM11 and DM12 of the SADMP DPD and Policy ENV5 of the Desford Neighbourhood Plan. A Building Recording condition has been requested by LCC Archaeology.

#### The Natural Environment

- 8.37 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.
- 8.38 Policy ENV3 of the Desford NP states that where a development will adversely affect a protected species, an appropriate survey will be undertaken prior to development, and mitigation measures will be required as a development condition.
- 8.39 A survey provided with the application has identified that bats are using the buildings affected by the proposed development. Common pipistrelles and brown long-eared bats are using the roof of Polebrook House as a non-breeding day roost. The report advises that in the absence of mitigation the proposed development would result in the destruction and/or modification of day roosts for low numbers of common pipistrelle and brown long-eared bats, also of a mating roost for brown long-eared bat and of a transitional roost for soprano pipistrelle resulting cumulatively in a medium scale negative effect, significant at the parish level.
- 8.40 There is also evidence of that the workshop to be demolished as part of the development is also likely a mating roost and feeding perch for brown long-eared bat and an occasional/transitional roost for common pipistrelle. In the absence of mitigation, the proposal would therefore result in destruction of the habitat and would result in a low scale negative effect, significant at the parish level.
- 8.41 The report outlines a mitigation strategy and method statement for safeguarding and compensating for any loss of bat habitat on the site. It also advises that a licence from Natural England will be required for these works. The principle of mitigation will involve the retention of the loft space of Polebrook House as a bat loft, solely for use by bats. The workshop should be demolished under supervision by an ecologist and four bat boxes provided on mature trees in the area in order to relocate any bats found. A planning condition relating to the implementation of the bat mitigation strategy is proposed. A licence from Natural England will also be required in order to ensure that the favourable conservation status of the species of bats roosting at the site is maintained.
- 8.42 The County Ecologist has confirmed that no objections are raised to the application and recommends the proposed bat mitigation is made a condition of any permission granted. It is the applicants' responsibility to liaise with their ecologist to ensure all necessary licences are in place prior to commencement of the works and ensure all licence conditions are adhered to.

- 8.43 The Arboricultural report submitted with the application identifies the removal of some trees, mainly adjacent to the front driveway which is currently in an overgrown condition and will be required to access the building. These trees are part of a group protection order and those to be removed are generally not significant tree specimens, being either dead or category C (low value / self seeded) trees. However, the removal of one category A oak tree T15 is likely for two reasons. Its proximity to extension C provides limited space for the large craneage required to install the bedroom modules. In addition, the tree has grown since the driveway has fallen into disrepair, impacting its surface and the reinstatement of the drive is required for service and ambulance access to the building.
- 8.44 However, following the amendments to the plans, the footprint of Extension C is reduced and the applicants now advise that there is some limited scope to possibly work around the tree, subject to reduction of the crown. Whilst this is not guaranteed and removal of the tree remains part of the proposal (as it may still prove necessary due to the impact of the works upon its health), they have offered to endeavour to try to protect during construction and following the crown reduction.
- 8.45 Tree T15 is part of a significant group within the site which is largely to be retained and will be protected during construction. In this instance, whilst the possible loss of this tree is regrettable, the amendments to the plans allow some scope for its retention. It is considered acceptable in this instance.
- 8.46 The National Forest Company advise that 20% of the site should be provided as dedicated National Forest planting. However, although the site extends to 0.72 hectares there is limited scope for large areas of additional tree planting. There is also significant existing tree cover on the site. In this instance it is therefore not practical to require 20% of dedicated National Forest tree planting. There would be no adverse impacts on the National Forest or Charnwood Forest strategy. Conditions are proposed relating to the protection of the existing trees and a detailed landscaping scheme which does provide some additional tree planting.
- 8.47 The proposed development would not have an adverse impact on the natural environment and the mitigation measures would safeguard the habitat of protected species. Additional landscaping and mitigation would provide biodiversity enhancements in accordance with the requirements of the NPPF. The proposal complies with Policy DM6 of the SADMP and Policy ENV3 of the Neighbourhood Plan.

## **9. Equality implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Conclusion**

- 10.1. The proposal is recommended for approval as it represents an acceptable re-use of an existing building which safeguards its status and viability as a non-designated heritage asset. The proposed alterations and additions to the building are in keeping with the scale and appearance of the existing building and its context. Subject to conditions, there would be no significant adverse impact on highway safety, neighbouring residential amenity, flood risk or the natural environment. Therefore the proposal complies with Policies DM1, DM4, DM6, DM7, DM10, DM11, DM12, DM13, DM17, DM18 of the Site Allocations and Development Management Policies Development Plan Document, Policies H5, H7, ENV3 and ENV5 of the Desford Neighbourhood Plan, the adopted Supplementary Planning Document 'The Good Design Guide' and advice within the National Planning Policy Framework.

## **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:
  - Topographical survey, Building Survey drawings and Existing site plan Drawing 3925 101 rev B all received 02/11/2021
  - Tree Survey and Tree Protection Plan Drawings 1B and 2B received 02/11/2021
  - Site location plan 3925 100 rev B received 02/12/2021
  - Drawings 3925 110 rev F, 111 rev J, 112 rev H, 113 rev J, 115 rev F, 116 rev H and 120 rev B all received 25/11/2022
  - Transport Assessment by David Tucker Associates SKP/NS/22397-01 dated 26/10/2021
  - Heritage Statement Report 2194 by Archaeology Warwickshire dated October 2021

- Tree Survey by Design Construction Management dated 10/10/2020 received 05/04/2022
- Bat Report by Wharton reference 2110111206RCV1A dated 15/10/2021
- Surface Water Drainage Strategy by C Jemm Ltd dated June 2022

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

3. No demolition/development shall take place until a Written Scheme of Investigation (WSI) has been submitted to and approved by the local planning authority in writing. For the land and structures 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, including historic building survey and any follow-up archaeological recording, and the nomination of a competent person(s) or organisation to undertake the agreed work

\* 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 a satisfactory historic building survey and archaeological investigation of the development site to record and advance understanding of the significance of the affected resource prior to its loss and to accord with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

4. 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 lead to on-street parking problems in the area and to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Development shall not begin until a scheme for protecting nearby dwellings from noise from the proposed development has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed before the permitted development first comes into use.

**Reason:** To safeguard the amenity of nearby occupants in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No development shall take place, including demolition or site works of any description, until 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, have been erected in accordance with the approved Tree Protection Plan. The development shall be implemented in accordance with the approved Tree Protection Plan. During the construction period, none of the trees or hedges indicated to be retained on the Tree Protection Plan 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.

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

8. Prior to 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 safeguard the environment and the amenity of nearby occupants in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No development shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not

practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered. No surface water to enter the foul system by any means.

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

10. No development shall take place above foundation level until a scheme for ventilation of the premises, which shall include installation method, maintenance and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use for the development hereby approved and maintained in use thereafter.

**Reason:** To safeguard the amenity of nearby occupants against noise and odour in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. 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 development hereby permitted have been provided 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).

12. No development shall take place above foundation level 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 DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. 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 any time on Sundays and Bank Holidays unless other agreed in writing.

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

14. No external lighting of the site shall be installed until details have been 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. Upon completion of the development, a statement of a suitably qualified contractor shall be submitted stating that any lighting installation to which condition X applies is fully compliant with the Institution of Lighting Engineers Technical Report Number 5 (3rd edition) for a sign within zone E2.

**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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Robothams drawing number 3925-110 rev F. 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 in accordance with the National Planning Policy Framework (2021) and Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

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

17. The development shall be carried out in full accordance with the bat mitigation strategy, specified in the ecological appraisal by Wharton dated 15/10/21.

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

18. The first floor north western facing windows on Extension C shall be fitted with obscure glazing to a minimum equivalent level 3 of the Pilkington scale or solid opaque materials as shown on the approved plans and shall be retained as such for the lifetime of the development.

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

## **12. Notes to applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. A Natural England licence will be required for Bat Mitigation. It is the applicants' responsibility to liaise with their ecologist to ensure that all necessary licences are in place prior to the commencement of the works and to ensure all licence conditions are adhered to.
3. 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 01163050001. 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.
4. In relation to conditions advice from Environmental Health should be sought via [esadmin@hinckley-bosworth.gov.uk](mailto:esadmin@hinckley-bosworth.gov.uk) to ensure that any investigation of land contamination is in accordance with their policy.
5. 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.
6. There is a 4in water main in the application site. No build over is permitted. If the applicant proposes to divert the main, the applicant, developer or site agent will need to submit a Diversion Application (S185).



Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager (Development Management)

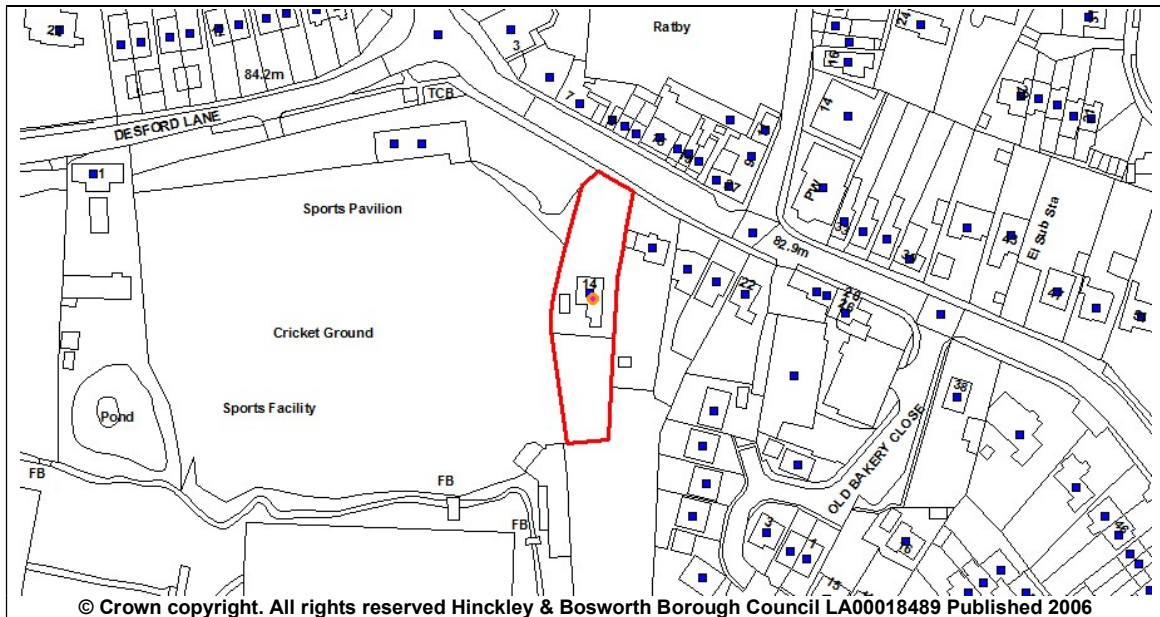
Planning Ref: 21/01482/HOU  
Applicant: Mr Lukbinder Bath  
Ward: Ratby, Bagworth and Thornton



Hinckley & Bosworth  
Borough Council

Site: 14 Station Road, Ratby, Leicester, Leicestershire

**Proposal: Remodelling of existing dwelling including a two storey rear extension, single storey side extension, roof extensions with attic accommodation and front porch**



## 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 householder application seeks full planning permission for;

- two-storey rear extension
- single storey side extension
- installation of rooflights (east side elevation) and dormer windows (west side elevation)
- roof replacement which includes a change from dual hip to gable end and an increase to the roof ridge height
- front porch extension

- 2.2 The proposed materials are to be cream render with timber panelling, replacement white aluminium windows and light brown concrete roof tiles.
- 2.3 The initial application proposed a two-storey side extension, followed by an amendment to a 1.5 storey side extension, both of which were resisted by Officers due to the overbearing impact that this type of extension would have on neighbouring No. 16 Station Road.
- 2.4 The application was called in by Cllr. Boothby due to concerns over the scale of the proposals and the subsequent impact on neighbouring amenity and the character of the street scene. The changes to the side extension have since been made.

### **3. Description of the site and surrounding area**

- 3.1. The application dwelling is located within the settlement boundary of Ratby at the end of a row of dwellings on the south side of Station Road, towards the south of the village. The dwelling is set back from Station Road by approximately 27 metres, whereas the immediate neighbouring dwellings to the east (numbers 16-22) are sites in a linear form approximately 10m back from the street. The application dwelling is understood to have been built by the previous owners of No. 16 Station Road in the mid-20<sup>th</sup> century.
- 3.2. The property itself is detached and two-storey, with a dual hipped roof and single storey extension to the rear and detached outbuilding to the west along the western boundary. It is constructed of red brick on the ground floor, with brown pebble dash render on the first floor, white wooden windows and brown clay roof tiles. There is a large, landscaped front garden area with a long, pebbled access to the front and rear of the dwelling. The rear garden and land ownership is extensive, extending beyond the settlement boundary of Ratby. At the time of the site visit it appeared overgrown and unused. The dwelling is bound by residential dwellings to the east and north, Ratby Town Cricket Club and Pavilion to the west, and open countryside to the south. The application site sits on slightly elevated ground (approximately 0.5m) compared to neighbouring No. 16 Station Road.

### **4. Relevant planning history**

#### **19/01083/FUL**

- Demolition of an existing garage and construction of 2 residential dwellings sited in the rear garden
- Withdrawn
- 20.11.2019

#### **20/00004/FUL**

- Demolition of an existing garage and installation of 2 new residential dwellings in the rear garden of 14 Station Road, Ratby
- Refused
- 17.03.2020

#### **21/01118/OUT**

- Removal of the garage to the existing dwelling and erection of two three bedroom 2 storey dwellings with gardens.

- Refused
- 08.12.2022

## **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. As a result of public consultation responses have been received from three separate addresses raising objections to the initial application on the following grounds:
  - 1) Overdevelopment, not in keeping with surrounding area
  - 2) Loss of privacy from overlooking from new roof lights
  - 3) Increased scale and massing will cause overshadowing and overbearing impacts
- 5.3. Following re-consultation, one objection was received from a neighbour with concerns regarding the overbearing and overshadowing impact of the enlarged dwelling which would appear out of character within the street scene, as well as the loss of privacy/overlooking from the proposed windows and roof lights.

## **6. Consultation**

- 6.1. Ratby Parish Council object to the initial application for the following reasons:
  - Very large extension not in keeping with the local surroundings (remodelling existing dwelling, including 2 storey rear extension 2 storey and single storey side extension, roof extension with attic accommodation and front porch)
  - Loss of light and private to adjacent properties
  - Access/egress to property on to narrow, single lane, busy road
  - Access directly opposite a permitted parking bay
  - Part of area subject to flooding
- 6.2. No comments were received from the Parish Council following re-consultation of the revised proposals.

## **7. Policy**

- 7.1. Core Strategy (2009)
  - Policy 7: Key Rural Centres
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
  - Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM10: Development and Design
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
  - National Planning Policy Framework (NPPF) (2021)
  - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Local Highway Authority Design Guide

## 8. Appraisal

- 8.1. Extensions to existing domestic properties located within settlement boundaries are generally considered to be sustainable development in principle. The key issues in respect of this application are therefore:
- Design and impact upon the character of the area
  - Impact upon neighbouring residential amenity

Design and impact upon the character of the area

- 8.2 Policy DM10 of the adopted SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features and for building material to respect existing/neighbouring buildings and the local area generally.

- 8.3 The Council's adopted Good Design Guide provides further advice in respect of the siting and design of house extensions and states:

*'Although it may appear that extensions are relatively modest in their scale, both individually and collectively, they can result in changes to the built environment that if designed insensitively, can have a significant negative impact.'*

and

*'Roof extensions are a well-used methodology for extending internal space but can be prominent over a wider area due to their higher scale compared with their neighbours.'*

- 8.4 Through the consultation process objections to the application have been received on the grounds that the proposed increase in the size of the dwelling would not be in keeping with the neighbouring dwellings in the vicinity. The dwelling is set back more than 25m from the street and does not therefore hold a prominent position within the street scene. The proposed alterations would lead to a noticeably larger dwelling when viewed from public vantage points, however this would be in the context of neighbouring dwellings and would not appear uncharacteristic.
- 8.5 The immediate surrounding area and neighbouring dwellings to the east comprise of two-storey detached dwellings, mainly on large plots, sited forward of the application site. There is a variety of house sizes and designs with a mix of hipped and gable ended roof form and only occasional dwellings with hipped roof form. The proposed dual hip to gable roof extension would only marginally exceed the existing ridge height (0.5m) and is therefore not considered to uncharacteristically exceed the height or scale of surrounding development. It is acknowledged that the new roof would result in an increase in overall scale and massing through the introduction of gable ends which extend the length of the ridge. Whilst this would result in a notably larger roof, the increase in massing is not considered to cause visual harm due to the siting of the dwelling.
- 8.6 The proposed two storey rear extension would essentially 'square off' the footprint of the dwelling, extending to the rear at two storey level by 2.8m on the eastern elevation and 6.8m on the western elevation. The cubic massing of the dwelling will be noticeably larger when viewed from the rear gardens of 16-22 Station Road and the new properties on Old Bakery Close. However, when compared to the existing situation, it is not considered that the extension would cause unacceptable harm to

visual amenity as the perceptible increase at two-storey level (from the east facing west) is approximately 25%.

- 8.7 The proposed single storey side extension and front porch would both be subordinate to the main dwelling, complementing the dwelling and not unbalancing the overall design. The raising of the chimney would increase the prominence of the feature positively and in proportion with the extended roof.
- 8.8 The proposed materials and wider detailing of the dwelling are considered acceptable and would result in an overall improvement to the visual appearance of the dwelling. The cream render exterior with timber detailing, porch and front door would improve the external appearance, whilst the new windows (including twin west side elevation dormers) would be suitable additions to the dwelling.
- 8.9 Notwithstanding the various objections received, by virtue of their siting, scale, design and subject to the proposed use of matching external materials in their construction to ensure a satisfactory and uniform appearance, the proposed scheme of extensions and alterations would respect the scale, form, character, and appearance of the existing dwelling and would not result in any significant adverse visual impacts on the character or appearance of the wider street scene or the surrounding area. It is therefore considered that the proposed scheme would meet the requirements Policy DM10 of the adopted SADMP and the general principles of the adopted Good Design Guide.

Impact upon neighbouring residential amenity

- 8.10 Policy DM10 of the adopted SADMP and the adopted Design Guide require that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.
- 8.11 The Council's adopted Good Design Guide states:  
*'The 45 degree rule is applied for planning applications for new extensions to existing properties which could result in the outlook from or daylight to a principal window to a habitable room being impacted upon. On a plan of the proposal, a projecting line is to be drawn from the nearest principal window to a habitable room that may be affected by the planning application towards the proposed building at an angle of 45 degrees. Habitable rooms include living rooms, bedrooms and kitchens but do not include rooms such as bathrooms, utility rooms, halls, landings or garages. The extension should not cross the 45 degree line.'*
- 8.12 Through the consultation process objections to the application have been received on the grounds that the extensions and alterations would result in loss of privacy, loss of light and overbearing impacts, particularly on No. 16 to the east.
- 8.13 The nearest neighbouring dwelling is 16 Station Road which is sited approximately 12m to the northeast, sharing an unusual relationship with the application dwelling when compared to the prevailing form of development within the street. The application dwelling is on elevated ground compared to No. 16, approximately 0.5m higher than its closest neighbour. By virtue of the siting and separation between the dwellings, the proposed extensions and alterations would not impede a 45-degree line of any principal habitable windows of No. 16.
- 8.14 The single storey side extension, roof alterations and two-storey rear extension would create a notably larger dwelling, and this would be perceptible from No. 16, particularly from the garden area. Although there would be some degree of negative impact through the additional massing of the proposals, it is not considered that this would be to an unacceptable degree. The existing relationship between the dwellings is unusual, and the current relationship features the prominent two-storey dwelling which limits the outlook and creates a degree of dominance in the rear

garden of No. 16. A separation of at least 1m between the proposed single storey side extension and the neighbouring boundary is maintained which accords with the Good Design Guide. It is not considered that the additional massing to the roof, rear elevation and side elevation would cause additional overbearing or loss of light impacts to an unacceptable degree when compared to the existing situation.

- 8.15 The proposed roof lights to the east side roof elevation to serve the proposed loft room within the roof space would face towards the south elevation of No. 16 at a separation distance of approximately 14 metres (minimum). There is already a window within the first floor of the application dwelling that face in the same directions and at slightly closer proximity. The proposed rooflights are positioned towards the new roof ridge so that loss of privacy or perceived overlooking would not be a concern as the height of the roof light would prohibit overlooking. Furthermore, the oblique relationship between the dwellings would limit direct views to and from the windows in question, whilst the separation distance of 14m is considered adequate in this case. The application proposes windows on the ground and first floors of the side (east) elevation serving a bathroom and hallway respectively. These windows are to be conditioned with obscure glazing to ensure that there is no perceived or actual overlooking into the garden of No. 16.
- 8.16 Notwithstanding the objections received, it is considered that the proposed scheme of extensions and alterations would, as a result of the amendments to reduce the scale and impact of the extensions, not result in any significant adverse impacts on the privacy or residential amenity of the occupiers of any neighbouring dwellings and that the scheme is therefore in accordance with Policy DM10 of the adopted SADMP and the principles of the adopted Good Design Guide.

Impact upon highway safety/parking provision

- 8.17 Policy DM17 of the adopted SADMP supports development where there would be no significant adverse impact on highway safety. Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.18 Through the consultation process objections to the application have been received on the grounds that the current access is not suitable for the potential increase in traffic as a result of the enlargement of the dwelling. Objections have also been received on the basis that the access is opposite a designated parking bay.
- 8.19 The proposed access is considered safe and suitable to serve the extended dwelling and the proposed parking provision is more than adequate. The proposal is therefore considered to accord with Policies DM17 and DM18 of the adopted SADMP or the general principles of the local highway authority design guidance.

Other issues

- 8.21. Concerns were raised via objections regarding the drainage capacity of the area due to the additional built form. The dwelling is located in Flood Zone 1 and has a low risk of fluvial and surface water flooding, therefore there are no concerns from Officers regarding flood risk.

## **9. Equality implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Conclusion**

- 10.1. The proposal is for extensions and alterations to an existing dwelling on a residential estate within the settlement boundary of Ratby where there is a general presumption in favour of sustainable development as set out in Policy DM1 of the adopted SADMP and the overarching principles of the NPPF.
- 10.2. Notwithstanding the various objections received, by virtue of their siting, scale, design and subject to the proposed use of appropriate external materials in their construction to ensure a satisfactory and uniform appearance, the proposed scheme of extensions and alterations would respect the scale, form, character and appearance of the existing dwelling and would not result in any significant adverse visual impacts on the character or appearance of the wider street scene or the surrounding area. By virtue of siting and separation distances the proposed scheme would not result in any harm to, or have any significant adverse impacts on, the privacy or residential amenities of the occupiers of any neighbouring dwellings. The proposal would retain safe and suitable access and acceptable off-street parking and turning facilities. The proposed scheme of extensions and alterations is therefore considered to be in general accordance with the design criteria principles of Policies DM10, DM17 and DM18 of the adopted SADMP, the general principles of the Council's adopted Good Design Guide and the general principles of the local highway authority design guidance and is therefore recommended for approval subject to conditions.

## **11. Recommendation**

- 11.1 **Grant planning permission** subject to:
  - Planning conditions outlined at the end of this report
- 11.2 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: Existing/Planning - Drawing Ref: DSA-21116-EXT-PL-01-J received by the local planning authority on 03.11.2022.

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

3. The materials to be used on the external elevations of the proposed extension and alteration shall accord with the approved plan - Drawing Ref: DSA-21116-EXT-PL-01-J received by the local planning authority on 03.11.2022.

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

4. Notwithstanding the submitted details, all the proposed roof light windows in the side (east) roof elevation shall be constructed with a cill height of a minimum of 1.7 metres above the floor level of the room in which the window is installed.

**Reason:** To ensure the development does not have a detrimental impact upon the privacy and residential amenity of any neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. On the side (east) elevation, the windows on the ground floor (serving a bathroom) and first floor (serving a hallway) shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and bottom hung. Once so provided the windows shall be permanently maintained as such thereafter.

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

#### 11.4 Notes to applicant

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



Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager

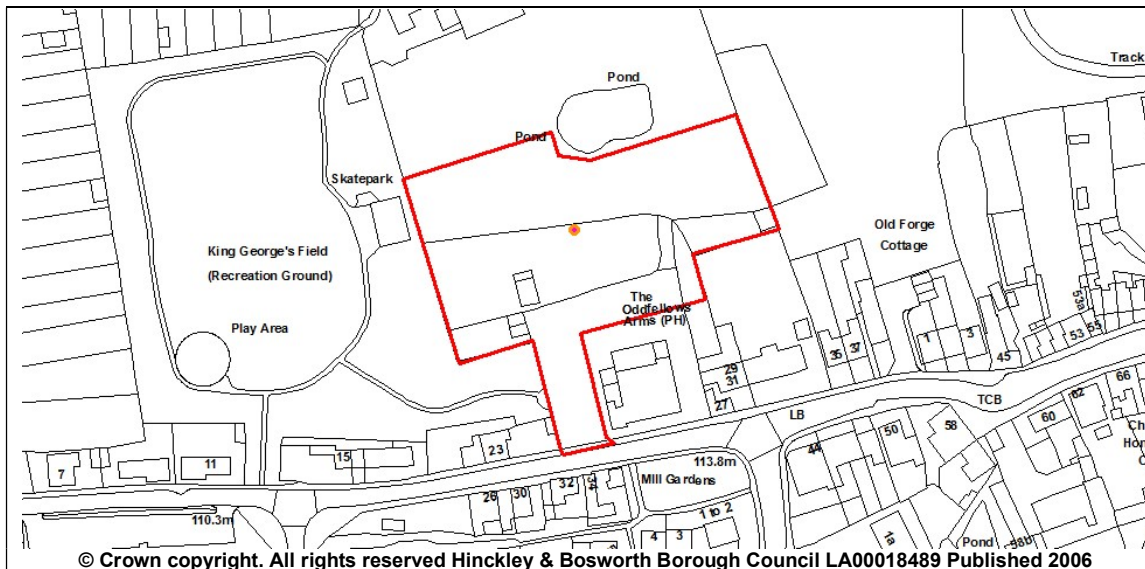
Planning Ref: 22/00124/FUL  
Applicant: AR Cartwright Ltd/Eleanor Cartwright  
Ward: Ambien



Hinckley & Bosworth  
Borough Council

Site: Oddfellows Arms 25 Main Street Higham On The Hill

**Proposal:** Hybrid application for the residential development of 9no. dwellings to include: (1) Full Application for erection of 3no.dwellings, with associated access, parking and landscaping and (2) Outline application for the erection of 6no. dwellings (Outline Application - all matters reserved except from access)



## 1. Recommendations

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

## 2. Planning Application Description

2.1. The application is a hybrid proposal that seeks full planning permission for the erection of three detached dwellings and outline permission for the erection of a further six detached dwellings. All matters are reserved except for access on the outline element of the proposal. The three dwellings subject to the full application, Plots 1, 2 and 9 are those closest to Main Street, one to the west of the proposed access, one to the rear of the public house and sited partly on the pub car park and one that backs on to the eastern boundary. Each are traditional two storey pitched roof dwellings with chimneys and brick detailing and two have four bedrooms and the third has three bedrooms. The four bed dwellings have double garages with two additional parking spaces and the third has a single garage with two additional tandem parking spaces.

2.2. The public house, the Oddfellows Arms, is not included within the application but is within the ownership of the applicant, as is the remainder of the field to the rear of the site. The public house, including its car park, is registered as an Asset of Community Value (ACV).

- 2.3. The site layout shows a single access point into the site from Main Street to the west of the pub which would serve the nine plots. The layout shows that the right of way from Main Street to the adjacent playing fields to the west of the site is retained.
- 2.4. The application is supported by the following reports and documents:
- Design and Access Statement
  - Archaeological Assessment
  - Heritage Statement
  - Transport Statement
  - Tree Report
  - Landscape and Visual: Addendum
  - Drainage Strategy Report
  - Ecology Report
  - Bat Survey
  - Great Crested Newt Report

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

- 3.1. The site is located on the northern side of Main Street. It includes the area of parking to the west of the pub and part of the car park to the rear. It also includes the grassed area to the rear of the pub car park and approximately half of the small field/paddock beyond this grassed area which has been identified as a possible Local Wildlife Site. As stated above one of the two the existing pedestrian access points to the playing field and children's play area from Main Street is located adjacent to the access into the site.
- 3.2. The pond in the field to the north of the pub car park lies just outside of the application site. The rear part of the site is wider than the frontage that abuts Main Street. To the east the site borders a similar small paddock beyond which are further fields and paddocks linking to open countryside to the north-east. To the west is the King George V Playing Field and to the north, beyond the small field, are dwellings on Hilary Bevans Close. To the immediate south, beyond Main Street, is a small, grassed area containing five trees. The site covers an area of 0.5 hectares in total including the access.
- 3.3. Levels on the site vary. The car park area is roughly level with Main Street, but the northern field area of the site is lower than Main Street with levels falling from south to north and from west to east. This levels difference is clear from Main Street as only the roofs and part of the upper storeys of the dwellings on Hilary Bevins Close, which is to the north of the paddock, are visible.
- 3.4. The site is located partly within the defined settlement boundary of Higham on the Hill, which includes the pub and its car park, with the remainder of the site outside the settlement boundary and so within the countryside. In the Council's Site Allocations and Development Management Policies Development Plan Document (SADMP), the pub building is identified as a community facility and the car park is included within the extent of the community facility boundary, where Policy 25, which relates to community facilities, applies.
- 3.5. The pub and car park are located within the Higham on the Hill Conservation Area and the pub is identified as a significant local building within the Conservation Area Appraisal. The Conservation Area Appraisal also identifies views and vistas of the site from Main Street looking north which are to be protected. There are listed buildings close to the site on the southern side of Main Street (60, Methodist Church, 68 and Elms Farmhouse – all Grade II) and to the east of the site is St Peter's Church (Grade II\*). The pub is considered to be a non-designated heritage

asset. The majority of Plot 1, the detached double garage to Plot 2 and the front garden of Plot 9, and its porch, lie within the Conservation Area.

- 3.6. The Higham on the Hill Conservation Area Appraisal identifies the view from Main Street to the west of the pub looking north as vista to be protected. It should be noted though that since the Conservation Area Appraisal was undertaken the development of dwellings at Hilary Bevins Close has been completed.
- 3.7. The churchyard of St Peter's Church which is a Grade II\* Listed building lies approximately 188 metres to the east of the site.
- 3.8. This is a revised proposal compared to previous planning applications with the extent of the site boundary reduced to exclude the public house, most of its ancillary land and the pond within the field to the rear.

#### **4. Relevant Planning History**

##### **14/00367/OUT**

- Erection of 10 dwellings (outline - access and layout).
- Refused
- 15.10.2014

##### **15/00381/COU**

- Change of use of land from agricultural to equestrian (re-submitted application).
- Planning Permission
- 03.06.2015

##### **20/00153/FUL**

- Demolition of the former Oddfellows Arms public house the erection of eight dwellings and associated infrastructure.
- Withdrawn
- 03.04.2020

##### **20/01065/HYB**

- Hybrid application consisting of full permission for the part demolition/part conversion of former public house to a dwelling house and construction of five dwellings with access and outline permission for the erection of up to 20 dwellings and associated infrastructure.
- Withdrawn
- 23.11.2021

#### **5. Publicity**

- 5.1. The occupiers of 15 neighbouring properties have been notified of the application. In addition the application has been advertised by means of both site and press notices.
- 5.2. A total of 47 representations have been received, 46 objecting to the application and one in support. The following comments have been made:
  - 1) The fact that the public house is an Asset of Community Value (ACV) is being ignored by the developers – the Council should be doing all it can to enhance community assets. Policy DM 25 says that the Council will resist the loss of community facilities

- 2) Plot 1, the garages to Plot 2 and the front garden to Plot 9 and the majority of the access road have encroached into the ACV leaving insufficient space for a viable pub to operate
- 3) The village has lost its shop and this pub needs to be retained as a community asset and for the Community Hub to be successful the whole of the ACV area needs to be retained – the proposal removes 47% of the curtilage area designated as ACV. This space is needed to ensure sufficient parking space, thus ensuring street parking is minimised
- 4) Higham has no shop and a limited bus service (no evenings, Sundays or Bank Holidays) – residents would rely on private cars. Buses are currently unreliable
- 5) The application results in the loss of trees from the playing fields, this is not acceptable
- 6) The infrastructure does not exist for additional traffic – the access is at the narrowest point where there are lots of parked cars – this will be dangerous
- 7) Loss of privacy and overlooking
- 8) The village needs a public house more than it needs new housing – 61 dwellings have recently been approved in the village (21/01147/OUT)
- 9) Detrimental effect on the Conservation Area and countryside setting – Higham needs to retain its identity as a rural village
- 10) Detrimental effect on views from the Church and from Footpath T49
- 11) Historic England previously said that development “would cause harm to the rural setting of the village and the Higham on the Hill Conservation Area” and that “The Oddfellows Arms has a strong street presence within the conservation area and the proposal to build ne large houses so close to this historic building does not seem appropriate within a designated conservation area
- 12) Contrary to DM11 as the proposal fails to preserve key views in and out of the conservation area
- 13) Support the application as the site is an eyesore
- 14) Insufficient parking is provided, people don’t use their garages for parking
- 15) The houses seem overlarge for this part of the village
- 16) Detrimental effect on wildlife – 50% of the area around the pond is closed off by new houses
- 17) Drainage problems will increase
- 18) Highway safety problems due to the access being right next to the access to the playing field – there have been several accidents that have resulted in damage to property and in one instance a car being written off
- 19) The scheme cannot achieve sufficient visibility splays
- 20) If there is to be development, then it should be for affordable homes
- 21) The application documents contain many errors
- 22) The applicant has a history of buying public houses and waiting for them to deteriorate and then be converted to flats or demolished for more housing (the Fox and Crane in Weddington)
- 23) The proposal doesn’t provide a mix of housing
- 24) The unsustainable nature of the proposal is contrary to the NPPF
- 25) The houses could be removed so the pub, open views of the countryside and the Conservation area were not affected resulting in a ‘win-win’ for both the developer and the local community
- 26) Disruption, dust, pollution and loss of safety during construction
- 27) The school is already at capacity
- 28) The site lies outside of the village boundary and so is contrary to Core strategy Policy 12 that supports housing within settlement boundaries
- 29) The proposal offers no benefits for the village

- 5.3. A letter of objection has been received from the Save The Oddfellows Pub (STOP) group/Higham Community Benefit Society Limited on the following grounds:
- 1) The designation of the pub and its car park has been confirmed by the Council in part as it was recognised that the principal use of the asset in recent years has been for furthering the social wellbeing or cultural, recreational or sporting interests of the local community. The proposal results in the removal of 47% of the car park area and this is grounds alone for rejecting the application.
  - 2) The pub is a designated community facility under policy DM25, which applies to ancillary areas as well as buildings.
  - 3) The STOP group continues to seek to engage with the developer, but the application effectively undermines the basis on which the pub could be used as a community facility. Some of the information submitted with the application is misleading and inaccurate.
  - 4) Funding has been secured and other applications for funding/loans are awaiting confirmation from the applicant that they are willing to proceed with a sale of the pub and its ancillary areas within the ACV.
  - 5) The exclusion of the pub from the proposals is very reminiscent of the situation with the same developer at the former Fox and Crane pub in Weddington where the listed pub was allowed to deteriorate until the developer was required to maintain it at which point it was converted into apartments.
  - 6) In discussions with the Council and the developer the STOP group had sought to establish development proposals that included the pub as a community hub and pub.
  - 7) Assumptions made in the application about traffic flows are unrealistic. The nearby junction and visibility are already challenging, and additional traffic would make the area more dangerous.
  - 8) The proposal would cause harm to the Higham on the Hill Conservation Area. English Heritage objected to a previous application and while the current application is for fewer homes, they are still clustered close to the pub and to the Conservation Area.
- 5.4. An objection has been received from the local branch of CAMRA (Campaign for Real Ale). The scheme makes significant inroads into the amount of space identified as an ACV. Without sufficient surrounding land the sustainability of a re-opened pub and community hub would be severely compromised. The proposal should also be rejected as it is contrary to policy DM25. Policy CLT02 of the draft replacement Local Plan recognises the important role that pubs play in being focal points for communities and community activities, particularly in rural areas.

## **6. Consultation**

- 6.1. Higham on the Hill Parish Council – objects to the application. “The Parish Council and the community have shown emphatically that we want to have the option of owning the Oddfellows building as a Community Hub. Applying for an ACV when the first plan was put in showed our determination. However, it is clear that if the community is to get what they want we need to compromise and accept some development. This present plan shows little regard for the open space enjoyed at the rear of the building. The erection of a house facing the back of the Oddfellows

building is not acceptable. It is far too close to the potential car park of the Community Hub. We would like to see this house removed from the plan.

If the application is approved we would like to see the following conditions apply:

- The Oddfellows is sold to the community to provide a Community Hub
- Sufficient land is left green in order to guarantee the outlook and protect the rural aspect of the site. Part of it is in the conservation area
- The access to the playing fields is maintained
- Sufficient space is allowed for parking at the potential Community Hub
- S106 monies are provided to be used by the Parish Council for the benefit of parishioners

The Design and Access Statement suggests we are desperate for houses as a Parish. We are not, but we are desperate for a Community Hub that can provide us with facilities to shop, meet and socialise.”

- 6.2. LCC Highway Authority (LHA) – The impacts on highway safety would not be unacceptable and the impacts on the road network would not be severe.

Main Street at the site access is an adopted, unclassified road subject to a 20mph speed limit although speed records show that speeds in this location are higher. The width of the access is acceptable. Visibility splays of 36m and 32m are required but given that this is an existing access, on balance, the LHA considers that the 25m indicated on the submitted plans is acceptable. The scale of the development would not lead to a severe or unacceptable highway impact in the context of paragraphs 110 and 111 of the NPPF.

The Personal Injury Collision database has no recorded collisions in the vicinity of the site in the last five years.

The LHA is mindful that the pub could in theory re-open and generate a level of trips in its own right. The LHA are satisfied that trips associated with the proposed development will not lead to an unacceptable impact on highway safety.

The LHA would not consider the internal layout for adoption in its current form as it currently serves only two properties as opposed to the minimum number of six usually considered necessary for a road to be adopted.

The nearest bus stops are on Main Street, approximately 125 metres from the site and provide a regular service to Hinckley and Nuneaton. The route is serviced hourly to Nuneaton and runs between 07:17 and 17:17 on weekdays and between 08:18 and 18:17 on Saturdays.

Given the pub does not form part of the application site, the LHA have not been able to consider any implications the proposals would have on the pub's parking. Should the proposals be granted permission, should the pub re-open it would do so with a reduced car parking capacity.

Due consideration should be given to waste collection provision; refuse vehicles are unlikely to access the site given that it is located more than 25m from the highway boundary and via a private road.

Conditions are requested regarding visibility splays and the provision of parking spaces.

- 6.3. LCC Ecology – no response to date.

*Officer comment: In January 2021, on application 20/01065/HYB, in response to a report regarding Great Crested Newts, the County Ecology team confirmed that the pond within the remaining part of the field to the rear of the site was unlikely to support great crested newts. The bat survey was also considered acceptable. Concern was expressed though regarding the loss of the Local Wildlife Site and the ability to provide a net gain in biodiversity. The current application leaves approximately half of the field containing the pond undeveloped, and it is therefore considered that a net gain in biodiversity could be achieved. This is addressed in greater detail below.*

- 6.4. HBBC Drainage – No objection subject to conditions regarding surface water drainage.

- 6.5. HBBC Environmental Services – No objections.

- 6.6. HBBC Conservation - Overall, the proposals will cause no harm to the significance of the Oddfellows Arms as a local heritage asset through changes to its setting. However, the proposed development would have an urbanising effect and by introducing such considerable change into important views and vistas would therefore reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area. Given the level of adverse impacts arising from the development the level of harm upon the significance of the conservation area is considered to be less than substantial and likely between the lower end and middle of that spectrum of harm.

- 6.7. Historic England – No response to date.

*Officer comment: In December 2020, with regard to application 20/01065/HYB which related to partial demolition and modifications to convert the pub to a dwelling and provide new dwellings in closer proximity to the pub as well as development of the entire field to the rear of the pub Historic England considered that the proposals would result in an alien development within the centre of the village that would fail to preserve or enhance the character and appearance of the conservation area and that the proposed development of the rear field would result in further harm to this character and appearance. Historic England was not concerned regarding the works to the pub as the demolitions related to later single storey elements of little or no architectural and historic interest.*

*Historic England was concerned though regarding the loss of the protected view identified in the Conservation Area Appraisal, despite the development of the houses on Hilary Bevins Close. Historic England was also concerned at the grain of development, the detailed design of the five dwellings covered by the full aspect of the application and that the development of the rear field would have a further harmful impact on the character and appearance of the conservation area. In November 2021 Historic England also confirmed that they were also concerned regarding the effect of the scheme for up to 20 dwellings on the setting of the Grade II\* Listed Church of St Peter to the east of the site given views from the churchyard across the site and that the rural setting of the church could be appreciated from the public footpath (T49) that runs close to the application site providing a clear link between the church, the historic public house and the playing field. Historic England was concerned that the development of the northern part of the application area would have an adverse impact on the rural, open setting of the church. Additionally, by interrupting the views and visual links between the church, the pub and the*

*playing fields, which were identified as key focal points within the local community, development in this area may also create a spatial disassociation which would be harmful to the significance of the designated Conservation Area.*

## **7. Policy**

### **7.1. Core Strategy (2009)**

- Policy 12: Rural Villages
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- 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 DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM9: Safeguarding natural and semi-natural open spaces
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM25: Community Facilities

### **7.3. National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

### **7.4. Other relevant guidance**

- Good Design Guide (2020)
- Landscape Character Assessment (2017)
- Leicestershire Highway Design Guide
- Higham on the Hill Conservation Area Appraisal and Map (2009)

## **8. Appraisal**

### **8.1. It is considered that the key issues in the determination of this application are:**

- Principle of Development
- Impact on Heritage Assets
- Design and Impact upon the Character of the Area
- Residential Amenity
- Ecology, Biodiversity and Trees
- Highway Safety
- Flood Risk and Drainage



## Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP). There is no Neighbourhood Plan for Higham on the Hill.
- 8.4. The Emerging Local Plan for 2020-39 has reached Regulation 19 draft stage (February to March 2022) and thus can be given only limited weight at this stage.
- 8.5. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough Council is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the borough, paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.6. Higham on the Hill is a rural village. The Core Strategy sets out that rural villages have more limited services than key rural centres and that a primary school and bus service are considered essential and that a public house is considered desirable. These services are considered key to the functioning of a village as they provide a community 'heart'. Higham on the Hill used to benefit from all three of these services until the Oddfellows Arms closed in 2018.
- 8.7. To support local services in rural villages, Policy 12 of the Core Strategy states that the Council will support housing development within settlement boundaries, that provides a mix of housing types and tenure (which is not required in this instance given that the scheme relates to nine dwellings rather than ten and the developable site area is less than 0.5 hectares). Paragraph 8.1 of the SADMP states that rural villages are the focus of limited development to ensure existing services are supported and community cohesion is maintained.
- 8.8. Policy 12 states that the loss of local shops and facilities will be resisted unless it is demonstrated that the business or facilities can no longer operate in a viable manner. The policy states that a minimum of 40 dwellings will be allocated in Higham on the Hill. Developers will be required to demonstrate that the number, type and mix proposed will meet the needs of the village, taking account of the

latest evidence, in line with Policies 15 and 16 of the CS, which relate to the provision of affordable housing.

- 8.9. The SADMP explains that at 1 September 2014, the 40 dwelling minimum requirement for Higham on the Hill had been met and so no housing sites were allocated in that Plan. Planning permission for up to 61 dwellings on land to the south of Wood Lane, to the west of the application site, was issued in September 2022 following completion of a S106 Agreement.
- 8.10. The majority of the site is located outside the settlement boundary of the village as set out in the SADMP inset map to the extent that all nine proposed dwellings lie at least partly within the countryside. Only part of plot 1 lies within the settlement boundary. The existing pub and the car parking are located within the settlement boundary. Therefore, the proposal fails to accord with Core Strategy Policy 12.
- 8.11. The fourth bullet point of CS policy 12 states that the loss of local shops and facilities will be resisted unless it is demonstrated that the business or facilities can no longer operate in a viable manner. In addition, Policy 25 of the SADMP states that the Council will resist the loss of community facilities, including ancillary areas. The policy states:
- “The loss of community facilities will only be appropriate where it can be demonstrated that:*
- (a) An equivalent range of replacement facilities will be provided in an appropriate location within a reasonable distance of the local community; or*
  - (b) There is a surplus of the facility type within the immediate locality exceeding the needs of the community; or*
  - (c) The loss of a small portion of the site would result in wider community benefits on the remainder of the site.*
- Where replacement facilities will not be provided or a surplus cannot be demonstrated and the scheme would not result in wider community benefits on the remainder of the site, the loss of a community facility would only be considered acceptable where it can be demonstrated that:*
- (d) The facility has been proactively marketed for a community use for a reasonable period of time at a reasonable marketed rate as supported and demonstrated through a documented formal marketing strategy.*
  - (e) It has been offered to the local community for them to take ownership of the facility.”*
- 8.12. The NPPF is a material consideration. Paragraph 79 states that to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 84(d) states that to support a prosperous rural economy, decisions should enable the retention and development of accessible local services and community facilities such as public houses. Paragraph 93 states that to provide the services the community needs, decisions should: plan positively for the use of community facilities such as public houses to enhance the sustainability of communities and residential environments, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day to day needs, and ensure that established facilities are able to develop and modernise and are retained for the benefit of the community.
- 8.13. The pub and its car park are registered as an Asset of Community Value. The effect of this is that the pub cannot be sold to a third party without the local community first

having the opportunity to purchase the site. In this instance the fact that the pub and car park are an ACV is of limited relevance given that the owner intends not to sell the pub but to develop a significant proportion of the car park (47% according to representations received) to provide the access road into the site as well as to provide a significant part of plot 1, a small part of the detached double garage to plot 2 and a small part of plot 9.

- 8.14. The 'Save The Oddfellows Pub' group (STOP) are a group of local residents and they have submitted a lengthy objection to the proposed development, as they did to the previous application. It is considered that the STOP group has shown that they are a local community group willing to take ownership of the facility and have formally offered to purchase it. Key to the determination of whether the proposal is in principle contrary to Policy DM25 is whether the loss of approximately 47% of the car park results in the loss of the community facility.
- 8.15. The proposed development retains the public house but significantly reduces the area available for car parking and any ancillary activities that residents have reported took place on the adjoining grassed area between the car park and the small field. As set out in detail above, Policy DM25 states that the Council will seek to retain existing community facilities including ancillary areas. In this instance the ancillary area includes the pub car park. It is noted though that the grassed area beyond the car park is excluded from the confirmed ACV boundary.
- 8.16. Policy DM25 goes on to state that the redevelopment of community facilities will only be appropriate where it can be demonstrated that replacement facilities are provided or where there is a surplus of the type of facility or the loss of a small part of the site would result in wider community benefits on the remainder of the site. It is considered that in this instance none of those three instances is the case as no replacement parking is proposed, the Oddfellows was the only pub in the village and there are no wider community benefits that result from development of part of the car park. Furthermore it is considered that the loss of such a significant part of the parking area, combined with the proximity of the new dwellings, which is discussed in greater detail below, would be likely to result in the loss of the Oddfellows Arms as a community facility.
- 8.17. Turning to countryside issues Policy DM4 of the SADMP states that the countryside will first and foremost be safeguarded from unsustainable development, to protect its intrinsic value, beauty, open character and landscape character. The policy sets out the circumstances (a to e) where development in the countryside will be considered sustainable and such development needs to also meet certain criteria (i to v). The proposed development does not meet any of the criteria a to e. Policy DM4 is out of date, however, the policy is in accordance with the Framework and has significant weight.
- 8.18. The planning history of the site is a material consideration. An outline application for 10 dwellings (access and layout only) reference 14/00367/OUT was refused in October 2014 on the same field as this proposed 20 dwellings for two reasons. The previous refusal was for a different scheme to what is now proposed, in that it proposed open space between Hilary Bevins Close and the 10 dwellings. The two refusal reasons were that the development would exceed the housing requirement of the village contrary to CS Policy 12, and secondly, that the development would cause harm to the rural setting of the village and the Conservation Area contrary to policy BE7 of the then Local Plan. At the time of that decision, permission had been granted for 43 dwellings to the north (14/00503/FUL) and the site is now developed as Hilary Bevins Close. The development of Hilary Bevins Close was therefore taken into account in that refusal decision.

- 8.19. Since that decision, there have been changes in both national and local policy. National policy is clear that housing requirements are minimum figures and not maximums. Although policy BE7 is no longer part of the Development Plan, the rural setting of the village and the impact on the Conservation Area and its setting are still key considerations. The weight that can be given to the previous refusal is reduced by the fact that the proposal is now nine dwellings not ten, and the policy context has changed.
- 8.20. As set out above the site lies adjacent to but outside of the settlement boundary for the village. Therefore the site lies within the countryside and Policy DM4 of the SADMP is applicable. Policy DM4 states that 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, 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; or
  - It relates to the provision of accommodation for a rural worker; 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
- 8.21. The proposed development does not fall within any category of sustainable development that is considered acceptable in the countryside. The proposal is not supported by either Policy 12 of the Core Strategy or Policy DM4 of the SADMP. The purpose of Policy DM4 is to protect the intrinsic beauty, open character and landscape character of the countryside. As such, the proposal conflicts with Policy DM4 of the SADMP.
- 8.22. Although there is clear conflict with the spatial policies of the development plan 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 arising from the conflict with Policy DM4 must therefore be weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case. Other material considerations are set out within the next sections of the report.

#### Impact on Heritage Assets

- 8.23. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications to pay special attention to the desirability of preserving or enhancing the character or appearance of any Conservation Area. Section 66 of the same Act places a duty on the local planning authority when determining applications that affect a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 8.24. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. In determining planning applications, local planning authorities should take account of paragraph 197 of the NPPF and:
- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) The desirability of new development making a positive contribution to local character and distinctiveness.
- 8.25. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.26. Paragraph 203 states that “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”
- 8.27. Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 8.28. Policy DM11 states that the Council will protect, conserve and enhance the historic environment throughout the Borough. Development with the potential to affect a heritage asset or its setting will be required to demonstrate an understanding of the significance of the asset and its setting, the impact of the proposal on the asset and its setting, how benefits of the proposal may outweigh any harm caused and any impact on archaeology in accordance with policy DM13.
- 8.29. Policy DM12 states that all development proposals affecting heritage assets and their setting will be expected to secure their continued protection or enhancement, contribute to the distinctiveness of the location and contribute to the wider vibrancy of the Borough. Proposals need to accord with DM10 and the DM11. Development should ensure the significance of a Conservation Area is preserved and enhanced through consideration and inclusion of important features, as identified in the Conservation Area Appraisal and Management Plan, including consideration of boundary treatments, views, trees/hedgerows, street pattern and plan form, street furniture, local materials and key spaces. Locally important heritage assets should be retained and enhanced where possible.
- 8.30. 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.
- 8.31. The Higham on the Hill Conservation Area Appraisal (HHCAA) provides general guidance and states that to maintain the distinctive character and appearance of the conservation area it will be necessary to (aspects of relevance to this proposal are listed only):

- retain buildings of local interest;
  - ensure new development contributes positively to the character of appearance of the conservation area in terms of siting, scale, design and materials used; and
  - ensure views out into the countryside are protected.
- 8.32. The Council's Good Design Guide (2019) also identifies design objectives for the settlement of Higham on the Hill to retain its key characteristics.
- 8.33. In determining applications, paragraph 194 of the National Planning Policy Framework (NPPF) and Policy DM11 of the Site Allocations and Development Management Policies (SADMP) DPD requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 195 of the NPPF also requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. That required assessment has been undertaken in the body of this section. A Heritage Statement has been prepared to accompany the application which identifies the significance of affected heritage assets; this document is proportionate and meets the requirements of paragraph 194 of the NPPF and Policy DM11 of the SADMP.

*Higham on the Hill Conservation Area*

- 8.34. The Higham on the Hill Conservation Area Appraisal (HHCAA) identifies that the prevailing image of Higham is that of an agricultural settlement. The conservation area boundary covers the historic core of the village as well as part of its immediate setting, including fields and open spaces to the north and south of the historic linear ridge top development along Main Street.
- 8.35. In the vicinity of the application site the conservation area can be approached by road from the west via Main Street and from the south via Nuneaton Lane. There are also several public footpath approaches including from the north via a public footpath (T49) which spurs off in two directions slightly beyond the north-eastern corner of the application site, where one footpath flanks most of the eastern boundary of the site. The HHCAA also indicates the location of key views and vistas within, to, and out from the conservation area.
- 8.36. The special character and appearance, and hence the significance of the conservation area is derived from a number of key elements, below is a list of those considered relevant for this proposal:
- The linear settlement pattern which is of historic interest in illustrating the development of the village from the medieval period onwards;
  - The positive contribution that the many non-designated heritage assets (identified as significant local buildings within the HHCAA) within the area boundary make to the historic and architectural interest of the area; and
  - The importance of key spaces, including green spaces, all of which contribute to the historic interest of the area, allowing for its mixed domestic and agricultural character and the character of the street scape of Main Street to be appreciated.
- 8.37. In addition it is also considered that elements of its setting also contribute to the heritage significance of the conservation area. These include:
- The King George Playing Field to the north-west which is an important area of green space immediately adjacent to the conservation area boundary; and
  - The wider rural landscape which is visible from parts of the conservation area and is illustrative of the agricultural origins and setting of the village.

- 8.38. The southern section of the application site is located within the western part of the conservation area. The HHCAA identifies the Oddfellows Arms, specifically the original building, as a significant local building of local heritage significance, with this building being within the conservation area and the immediate setting of the application site.
- 8.39. The HHCAA acknowledges that the village's prominent ridge top location enables good views out into the countryside which reinforces the rural character of Higham on the Hill. From Main Street a vista and a view are identified on the HHCAA map, where at the time of adoption in 2009 there were clear views of the countryside to the north when positioned on Main Street over the open space and car park either side of the Oddfellows Arms and over the land to the rear which includes the application site. The subsequent residential development at Hilary Bevins Close immediately to the north of the application site since the adoption of the HHCAA has materially altered the view and vista, and although the extent and nature of the countryside view and vista have been diminished due to the presence of the dwellings in the middle ground, due to the elevated position of the observer on the ridge top the countryside remains discernible in the long distance and the rural setting of the conservation can continue to be appreciated and experienced from these positions. However, due to the material changes within the views it is considered the level of importance of these views and the ability to appreciate the rural setting of the conservation area is now only minor.
- 8.40. The northern part of the site is grassland and has a rural, undeveloped and open character. As identified within the section above, when positioned within the northern part of the site and upon the immediately adjacent public footpath to the east, the undeveloped and open nature of these parcels of land and the associated topography allow for clear views of the rear elevation and form of the Oddfellows Arms and surrounding development along Main Street. The northern part of the application site and adjacent paddock to the east therefore makes a minor contribution to the significance of the conservation area by reinforcing its rural character and allowing for the observer to appreciate the heritage interest of the Oddfellows Arms and the historic linear and ridge top development of the village when positioned within the immediate setting of the conservation area.
- 8.41. The HHCAA also identifies an additional important vista looking westwards from the churchyard of the Church of St Peter, which is located within the northern section of the conservation area. Again there have been material changes in this vista since the adoption of the HHCAA with a small number of dwellings constructed within the rear of plots along Main Street (key space G within the HHCAA), the construction of the new dwellings at Hilary Bevins Close, and the establishment of a manège immediately to the west of the churchyard. The new dwellings along Main Street are relatively dominant within the vista, whilst the new dwellings at Hilary Bevins Close are largely concealed by boundary vegetation and the position of this development on lower ground. The paddock immediately to the north of application site is visible in the middle distance in views from the churchyard over the boundary blue brick wall, adjacent manège and intervening paddocks. However the application site itself is not discernible from this viewpoint given the reduction in the extent of the application site boundary compared to the previous submitted application and the presence of the intervening built form and boundary treatments.

*The Oddfellows Arms*

- 8.42. The Oddfellows Arms is located within the westernmost part of the historic settlement core of Higham on the Hill. The heritage significance of the Oddfellows Arms is largely embodied within the original late 18<sup>th</sup> to early 19<sup>th</sup> century building, which possesses historic and architectural interest as a prominent and landmark

building, symmetrically formed and of some age. The building was in use as a public house since at least the late-19<sup>th</sup> century and despite its recent period of vacancy the number of submissions in previous applications involving its change of use and designation as an Asset of Community Value confirm the community value attributed to its use as a public house and this subsequently makes a contribution to the historic interest of the building. Its architectural interest has been diminished by the subsequent alterations so is considered to be of low value, and whilst the extensions illustrate the 20<sup>th</sup> century development of the public house they do not make any particular contribution to the historic interest of the building, rather they are considered to detract from the overall significance of the building due to their poor quality appearance. The building is identified as a significant local building within the HHCAA and for the above reasons the building should be considered as a local heritage asset when assessed against the Borough Council's adopted local heritage asset selection criteria (2017) and be considered a non-designated heritage asset in terms of the NPPF.

- 8.43. As identified within the section above, the local heritage interest of the Oddfellows Arms is principally derived from its considerable historic interest (which includes its historic use) and also some low architectural interest. It follows a local vernacular style and is a prominent landmark building in views along Main Street. Although the character and appearance of the building has been undermined by the unattractive modern alterations and extensions to the original building, for the above reasons it is still considered that the original building makes a positive contribution to the significance of the conservation area. The porch to the front elevation and car park surroundings, which allows for a sense of openness around the public house, are considered to make a neutral contribution to the significance of the conservation area.
- 8.44. The setting of the building also makes some contribution to its heritage significance. The NPPF (Annex 2) defines the setting of a heritage asset as "the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral." Historic England provide advice on the setting of heritage assets in their Good Practice in Planning Note 3 (2015).
- 8.45. The curtilage of the building makes a minor contribution to its heritage significance by illustrating the historic function of the building, providing physical separation from neighbouring plots, and creating a sense of openness around the building. Main Street is the main historic thoroughfare that the public house was designed to front onto and attract passing trade so is therefore a positive element of the building's setting to the south. The historic settlement core of Higham on the Hill was the community that the public house historically served and also contributes to the significance of the building by being part of its setting. Whilst the field to the rear of the Oddfellows Arms (the northern part of the application site) makes no direct contribution to the significance of the building as there is no clear evidence of relationship with the public house in terms of landownership or functional use, its currently undeveloped and open nature does allow for clear views of the rear elevation and form of the building when positioned within this field, from which a minor appreciation of the historic and architectural interest of the building can be obtained.

*Listed Buildings (including the Church of St Peter)*

- 8.46. There are six listed buildings located within Higham on the Hill. These are the grade II\* Church of St Peter and the grade II Higham Hall, 60 Main Street, 66 Main Street, 68 Main Street and 70 Main Street.



- 8.47. Due to both the topography and the presence of intervening built form and vegetation there is no inter-visibility between the application site and any of the grade II listed buildings located within the village, nor is there any known key historic, functional or other relevant relationships between the application site and these heritage assets. The application site is therefore not considered to fall within their setting and due to the form of the proposal and the reduced application site boundary it is considered they would not be affected by the development.
- 8.48. There is some very limited inter-visibility between the application site and the grade II\* listed Church of St Peter, although there is no known key historic, functional or other relevant relationships between the application site and this heritage asset. Whilst the site may be positioned within the wider setting of the Church it is considered that the significance of the Church would not be materially affected by the proposed development and that the ability to appreciate its significance would not be reduced by the proposed development due to the very limited intervisibility between the site and the Church and the peripheral positioning of the site from the Church in any such views.

Impact of the proposal upon heritage assets

*Higham on the Hill Conservation Area*

- 8.49. The proposed adoptable road situated to the western side of the Oddfellows Arms would replace the existing area of hardstanding so it is considered that the visual change resulting from the aspect of the proposal would be negligible and have no adverse impacts upon the conservation area.
- 8.50. Of the proposed new dwellings for which full permission is sought plot 1 and its garden are located mostly within the conservation area boundary, whilst plots 2 and 9 are partially within the conservation area boundary with the dwellings themselves located within its immediate setting. The three proposed dwellings and associated garages have a simple rectangular plan form, dual pitched roof form and simple front elevations with appropriately styled fenestration and architectural detailing. The proposed construction material of red brick respects the prevalent walling material of the wider area, but a concrete roof tile and upvc material for the window frames are modern materials that do not respect the traditional characteristics of the conservation area. Alternative traditional materials such as natural blue clay tiles roofs and timber window frames are strongly advised. Further details confirming the acceptability of materials could be request via planning condition if the application was to be approved. The design, form, appearance and some of the construction materials of the new dwellings and garages reflect the traditional characteristics of the conservation area so these aspects of the proposal are considered to preserve the significance of the conservation area and its immediate setting.
- 8.51. Due to the positioning and height of the 1.8m close boarded fence to bound the garden to plot 1 the important long distance view northwards of the countryside from Main Street when positioned to the east of the Oddfellows Arms will be lost. Due to the positioning of the new site access road there is the possibility that some limited visibility of the countryside would remain in views along this road and over or in between the new outline development (assuming these plots would be two storeys in height to follow the prevailing scale of development within the settlement) and the recent development at Hilary Bevins Close beyond. What is clear is that the important vista currently available looking northwards when positioned to the west of the Oddfellows Arms would be interrupted and its immediate context altered with plot 1 itself and the proposed 1.8m close boarded fence along the rear of plot 1

being a clear presence within the middle ground. The development of the site will alter the rural character of the conservation area (where located within the application site) and the setting of the conservation area via the domestication of the site. The approach to the village from the public right of way to the east of the site would also be affected by development in the northern section of the site with the approach to the village from its current largely rural setting being domesticated. The proposed development would urbanise the site and by introducing considerable change into important views and vistas would therefore reduce the ability to appreciate the rural setting of the conservation area, so the development will have an adverse impact upon its significance.

#### *Oddfellows Arms*

- 8.52. Due to the siting of the new dwellings and garages being set back from the Oddfellows Arms a reasonable sense of openness around it and physical separation from neighbouring plots will be maintained. The extent of the views of the rear elevation of the building will be reduced following the development of the application site, but views of this elevation would still be achievable from a reasonable extent of the new access road and further within the site due to the raised position of the building. The existing minor appreciation of the historic and architectural interest of the building would continue to be obtained from these positions. It is therefore considered that any impact upon the significance of the building resulting from changes to its setting are considered to be negligible.
- 8.53. Due to the layout of the proposal the grassed garden area of the public house would be lost to development. This aspect of the proposal has no direct impact upon the Oddfellows Arms as a local heritage asset.

#### *Harm vs benefits exercise and summary*

- 8.54. Overall, the proposals will cause no harm to the significance of the Oddfellows Arms as a local heritage asset through changes to its setting. However, the proposed development would have an urbanising effect and by introducing such considerable change into important views and vistas would therefore reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area. Given the level of adverse impacts arising from the development the level of harm upon the significance of the conservation area is considered to be less than substantial and likely between the lower end and middle of that spectrum of harm.
- 8.55. As currently proposed the harm caused to the Higham on the Hill Conservation Area must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP and paragraphs 199, 200 and 202 of the National Planning Policy Framework. 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

It is considered though that the proposals do none of these things and instead would actively work against each possible public benefit.

- 8.56. Paragraph 199 of the NPPF states that great weight should be given to the conservation of designated heritage assets, and the more important the asset, the greater the weight should be. This is irrespective of the level of harm to the significance of the asset.
- 8.57. Paragraph 200 of the NPPF states that any harm to the significance of a designated heritage asset should require clear and convincing justification. The need for justification is re-iterated in Policy DM11 of the SADMP. The Heritage Statement provides no particular justification for the mutually agreed less than substantial level of harm caused to the conservation area resulting from the new development within its immediate rural setting.
- 8.58. The proposed new dwellings on plots 1, 2 and 9 that are all partially within the conservation boundary and its immediate setting are of an appropriate design, form and appearance, subject to revisions regarding construction materials, and would sustain the significance of the conservation area resulting in a heritage benefit. has an urbanising effect on important views and vistas that reduce the ability to appreciate the rural setting
- 8.59. The weight afforded to the public benefits arising from the proposal will need to be determined. The ultimate conclusion of the balancing exercise is set out below.

#### Design and Impact upon the Character of the Area

- 8.60. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.61. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment. The SPD sets out minimum separation distances between dwellings and a general guideline for garden sizes of 7.0m minimum length and of 80sqm in area for a 3 bed house.
- 8.62. The SPD states that Higham on the Hill is a linear, early medieval village situated on a ridge-top overlooking rolling farmland. Two design objectives are set out:
- Protecting the main approaches focussing on low-density development , reflecting the rural agricultural precedent.
  - Retaining the diverse but unified character of the undulating Main Street, halting the encroachment of generic modern styles/elements that will ultimately lead to a disjointed street scene, instead responding to a rural vernacular style.
- 8.63. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.64. The south of the site that contains the access, most of plot 1, part of plot 2 including its double garage and the porch and front garden of plot 9, is located within the defined settlement boundary and the larger northern part, that contains almost all the buildings, is open countryside. The 2.5 storey pub building, set back from the

road, with a key vista to the west and a key view to the east, and set within a large open car park clearly stands out in the street scene. The pub and car park are relatively level with Main Street but the land falls to the north towards the dwelling in the distance on Hilary Bevins Close. Due to levels changes and trees/hedges, the roofs and part of the upper storeys of those dwellings are visible from Main Street.

- 8.65. The Council's Good Design Guide (GDG) sets out that Higham is an early medieval agricultural village set on a ridge overlooking rolling farmland. As the village has expanded the GDG points out that the village has lost its intrinsic historic character in places as a result of modern development. The Higham on the Hill Conservation Area Appraisal (HHCAA) points out at paragraph 4.7 that specifically with regard to this western stretch of Main Street long distance views of the countryside and hedge boundaries reinforce the rural character of the settlement. It is considered that while those views will be most readily perceived when travelling along the highway as dwellings peter out and views of the countryside open up they are also importantly viewed when walking along the street and looking north between gaps in development.
- 8.66. Two of those key vistas and views, which the HHCAA, at paragraph 5.1 states it is important to protect, are set out on the Appraisal's map as being to the immediate west and east of the Oddfellows Arms where views of the field to the rear of the car park that links with other fields through to the countryside to the north and east as well as long distance views of the wider countryside over the tops of the roofs of dwellings on Hilary Bevins Close are considered to be very apparent. These key vistas and views and the strong visual links to the countryside and the original linear character of the settlement would be lost as a result of the proposal.
- 8.67. The proposed development would also be prominent in views from the network of public rights of way in and around the village that form several circular routes making use of the local road network. In particular the development would be prominent in views looking west along the footpath (T49) that leads from the church directly towards the site and that skirts the Conservation area before heading north and running alongside the development on Hilary Bevins Close. The scheme would also be prominent in views from the north when heading south on footpath T49. The footpath runs along the edge of the Hilary Bevins development and then emerges into the countryside that border the village on its northern flank. The Grade II\* Listed St Peter's Church would be prominent in its countryside setting in views to the east with the historic core of the village on the ridge of higher ground in the foreground. In these views the linear origins of the village are clearly discernible. The proposed development would detrimentally intrude into those views.
- 8.68. It is considered that the proposed development fails the requirement set out in Policy DM10 that development is required to complement or enhance the character of the surrounding area with regard to scale, layout, density and mass.
- 8.69. The proposed development, as a result of its urbanising effect, would have a significantly harmful effect on the character of the site and surrounding area contrary to the requirements of Policy DM10 of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

#### Residential Amenity

- 8.70. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.

- 8.71. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.72. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.73. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.74. The nearest residential properties to the site are to the south of the site on Main Street and are over 35m from the side gable of Plot 2. Plot 2 does have a bedroom window facing the shared boundary, but it is over 9m from the boundary. The garden to the existing dwelling that shares this boundary is over 30m long though and the bedroom window is approximately 40 metres from habitable room windows to the rear of the existing dwelling that are directly facing
- 8.75. To the north there is a distance of at least 32 metres between the northern boundary of the site and the rear boundary of dwellings on Hilary Bevins Close. Although the application site is elevated in comparison the application is submitted in outline only for the dwellings at the rear of the site.
- 8.76. There are no other existing neighbouring dwellings that might be affected by the proposed development. Given the layout and distances between the three proposed dwellings that comprise the full element of the application it is considered that any future residents would benefit from adequate levels of amenity with regard to garden space and issues of privacy and overlooking. The illustrative layout shows that the six dwellings that are subject to the outline element of the scheme would also benefit from adequate levels of amenity with regard to those same issues.
- 8.77. The Council's Environmental Services Team has been consulted and has no objections to the proposal. There are concerns though that the garden to plot 1 is directly adjacent to the car park and that noise from the public house, particularly on warm evenings when any occupiers of plot 1 were seeking to enjoy their private rear garden, and from customers leaving the premises in their cars might be a source of noise and disturbance to future occupiers.
- 8.78. Officers are also mindful that Policy DM25 of the SADMP seeks to resist the loss of community facilities. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. There are no planning restrictions on the hours of use of the public house, which in common with all licensed establishments has its hours controlled by other means. The Environmental Services Team have been reconsulted and members will be updated on their response in the Late Items report.

- 8.79. It is considered though that the proposed development is likely to result in the future occupiers of plot 1 suffering a significantly detrimental standard of amenity contrary to the requirements of Policy DM10 of the SADMP and the NPPF as a result of noise and disturbance generated by activities within the adjacent public house and its car park. Furthermore the proposed development is likely to result in restrictions being placed on the use of the public house that would significantly reduce its value as a facility enjoyed by the community, particularly so when it is the last remaining public house in Higham and has been identified as an ACV and the current lack of a working public house has been identified as an issue facing villagers within Higham, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.

#### Ecology, Biodiversity and Trees

- 8.80. 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.
- 8.81. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity and by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, which includes trees.
- 8.82. 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.
- 8.83. Neighbours have raised concerns regarding the development of greenfield land, the loss of countryside, the impact on habitats and the loss of trees.
- 8.84. The County Ecologist has previously advised that the Bat Survey and Great Crested Newt Survey submitted under the previous application on the larger site, were acceptable. The habitats in the full application part of the site are of limited biodiversity value. However, while the northern field part of the site is a Local Wildlife Site and is likely to be of ecological value a significant proportion of this small field remains undeveloped. It is considered therefore that subject to a condition requiring that development of the site resulted in enhancements to biodiversity across land within the applicants' control, a net gain could be secured by making use of the remaining part of the field in accordance with the requirements of Policy DM6 and the NPPF.
- 8.85. With regard to trees the submitted landscape strategy drawing and Tree Report shows that 15 trees are proposed to be removed from the site and that 14 new trees would be planted either within or adjacent to the site bordering the pond. All the trees on the site are Category C trees (third in a ranking of four categories). There are only two Category B trees that border the site, one is to the rear of the field and so is unaffected by development. The better of the two trees though is close to Plot 9 and the submitted tree report shows that the proposed dwelling lies within the root protection area of the tree. Had the recommendation been for

approval of the application it is considered that officers would have sought further information or amendments to the siting of Plot 9 or would have attached a condition relating to the retention of this tree.

- 8.86. As the tree is part of a larger group of trees between the site and the entrance to the playing fields though it is not considered that an additional reason for refusal is warranted regarding the impacts of the current scheme on this tree. Additional tree planting would be able to be secured via condition. As such it is considered that the application does not result in impacts that are contrary to the requirements of Policy DM6 of the SADMP or to the requirements of the NPPF.

#### Highway Safety

- 8.87. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)). Dwellings of 3 beds or less require 3 parking spaces and dwellings of 4 beds or more require 3. For a garage to be classed as a parking space, it requires an internal measurement of 6m by 3m for a single and 6m by 6m for a double (minimum door width 2.3m) and a planning condition will be required to restrict its loss/conversion. Parking spaces should be 2.4m by 5.5m minimum (with an extra 0.5m width if bounded by a wall/fence etc).
- 8.88. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development. Developments within the town centre should demonstrate that they would not exacerbate existing problems in the vicinity with increased on-street parking. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible. This would be assessed and secured at reserved matters stage.
- 8.89. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.90. The objections to the application also raise concerns about the impacts of the development on highway safety close to a junction in the centre of the village on a narrow section of Main Street.
- 8.91. The applicant has submitted a Transport Statement. It notes that the site is located on an unclassified road within a 20mph home zone, and the development is proposed to be accessed from Main Street via a 4.8m wide carriageway with 2m wide footways on both sides. The site fronts onto Main Street which already has a pavement which abuts the southern site boundary. Visibility splays of 25m by 2.4m are provided at the site entrance. The internal road layout would be built to relevant standards. The site contains an existing pedestrian link to the adjacent park to the south-western corner. This would be retained. The Statement concludes that there are opportunities for sustainable travel although it does also refer to the presence of a convenience store within the village that closed in 2020.
- 8.92. As set out above the County Highway Authority has been consulted and while the road would not be adopted it has no objections to the application on highway safety grounds subject to conditions. The garage sizes and the amount of parking proposed for plots 1, 2 and 9 accord with the Highway Design Guide.

- 8.93. As such, it is not considered that the proposal will have any significant negative impact on the highway network to the extent that refusal or amendment of the application is required. The proposal therefore satisfies Policy DM17 and DM10(g) of the SADMP and the NPPF.

#### Flood Risk and Drainage

- 8.94. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.95. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.96. The site is located within flood zone 1 indicating a low risk of surface water flooding. The public comments have raised concerns regarding drainage issues.
- 8.97. The applicant has submitted a Report for Foul and Storm Water Drainage. A SuDS scheme is proposed using permeable paving, large diameter pipes, cellular attenuation, a pumping station and a Hydrobrake chamber. Combined these measures are reported to provide a 30% betterment over the existing run-off rates. It is proposed that the foul drainage and surface water drainage will connect to the existing system under Main Street.
- 8.98. The HBBC drainage officer has no objection and recommends that conditions are imposed to secure a scheme for surface water drainage, management of surface water on site during construction and details of the long term maintenance of the sustainable surface water drainage system.
- 8.99. Subject to this condition the development is considered to be acceptable with respect to flooding and surface water runoff issues and satisfies Policy DM7 of the SADMP and the NPPF.

#### Other matters

- 8.100. Archaeology – the interests of the archaeology of the site could be secured via condition.

#### Planning Balance and Conclusion

- 8.101. 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.
- 8.102. This application relates to the erection of nine dwellings on a site the majority of which lies within the countryside. That small part of the developable area of the site that does not lie within the countryside lies within the settlement boundary and within the Higham on the Hill Conservation Area. There is a history on the wider site that includes the refusal of 10 dwellings and of an application for 20 dwellings being withdrawn before the application was refused. There is also a history of the local community seeking to retain the villages last remaining public house as a community hub and pub.



- 8.103. The most recent housing land monitoring statement for the period 2020 -2021 indicates, that the Council cannot demonstrate a 5-year housing land supply. This is also a key material consideration and under these circumstances, the NPPF 2021 sets out, in paragraph 11d) that, for decision makers:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

- 8.104. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.
- 8.105. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.106. Paragraph 8 of the NPPF sets out three overarching objectives for sustainable development which are interdependent and need to be pursued in mutually supportive ways.
- 8.107. The scheme would provide economic benefits through the creation of jobs and demand for services during the construction phases and from the future occupation of the development supporting the local economy. This is balanced though by the economic disbenefits that are considered likely to result from the significant reduction in the size of the car park to the Oddfellows Arms and the likely difficulty in then making the public house a successful concern as a result.
- 8.108. Socially, the scheme would provide a modest contribution towards housing supply within the borough. Any social benefits though are considered to be outweighed by the likely impossibility of making the public house a successful concern described above and by the impact of noise from the public house on the amenity of future residents of Plot 1 and the likely difficulties and restrictions that would likely be placed on what the local community wish to retain as a community hub and pub. It is realistic to expect that the scheme would cause significant harm to the vibrancy of the community, contrary to the social objective of sustainable development contained in the NPPF.
- 8.109. Environmentally, as the site lies within the countryside and is not allocated, there would be conflict with the spatial strategy of the development plan and the NPPF which is clear that the planning system should be genuinely plan led with plans acting as a platform for local people to shape their surroundings. Overall, the proposed development would have an urbanising effect and by introducing such considerable change into important views and vistas it would therefore reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area.

Given the level of adverse impacts arising from the development the level of harm upon the significance of the conservation area is considered to be less than substantial and likely between the lower end and middle of that spectrum of harm. There would also be significant harm caused to character and appearance of the site and wider area that predominantly lies outside of the Conservation Area. The proposed development conflicts with Policy DM4 of the SADMP and the NPPF as the majority of the site lies within the countryside. It is considered that the impact on the character and appearance of the area would be severe given the nature of the site and the important role that it plays in connecting the village to its origins as an agricultural settlement with views and vistas over rolling countryside.

- 8.110. Paragraph 8.1 of the SADMP states that rural villages are the focus of limited development to ensure existing services are supported and community cohesion is maintained. Approval of the application is considered to achieve the opposite of that intended in that the development is considered to result in the loss of the villages remaining public house thereby failing to support community cohesion.
- 8.111. The loss of a significant part of the car park with no replacement provision and where the pub was the only such facility in the village means that the proposal is also contrary to Policy DM25 of the SADMP. In addition, the application is considered to be contrary to paragraphs 84(d) and 94 of the NPPF.
- 8.112. The proposal conflicts with Policies DM1, DM4, DM10, DM11 and DM12 of the SADMP and the relevant paragraphs of the NPPF as a result of the less than substantial harm on the setting of the Higham on the Hill Conservation Area, a designated heritage asset of particular importance and the significant harm to the character and appearance of the site and surrounding area.
- 8.113. Having assessed the application it is considered that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the development plan and the NPPF as a whole. Consequently the presumption in favour of development set out within policy DM1 and the NPPF does not apply, and material considerations do not indicate that planning permission should be granted for a scheme that is not in accordance with the development plan.

## **9. Equality implications**

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

- 10.1 **Refuse planning permission** for the reasons set out below.

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

## **10.3 Refuse planning permission**

### **10.4 Reasons**

1. By virtue of the location of the application site within the countryside, the proposed scheme would result in new residential development in the designated countryside beyond the settlement boundary of the rural village of Higham on the Hill and the resulting urbanisation of the site would result in significant and permanent environmental harm to the intrinsic value, beauty, open character and landscape character and verdant appearance of the site and its contribution to the surrounding area. The proposal would therefore be contrary to Policy 12 of the adopted Core Strategy and Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2021) and this harm would significantly outweigh the benefits when considered against the Framework as a whole.
2. The introduction of significant new built form onto open land and fields directly adjacent to the Higham on the Hill Conservation Area would have a significantly detrimental urbanising effect on important views and vistas that would reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area. For these reasons the proposal has adverse impacts upon the significance of this designated asset and this significant but less than substantial harm is not outweighed by the identified public benefits of the scheme. The proposal is therefore contrary to Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
3. By virtue of its scale and massing the proposal for nine dwelling on this undeveloped site that has a rural, open character would result in an incongruous form of development that would be prominent in views from public vantage points and would detract significantly from the character of the application site and the area, contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).
4. The proposed development is considered likely to have a significant detrimental effect on the amenity of future occupiers of Plot 1 as a result of noise and disturbance from the Oddfellows Arms public house contrary to the requirements of Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (SADMP) and the National Planning Policy Framework (2021). Furthermore the proposed development is likely to result in restrictions being placed on the use of the public house that

would significantly reduce its value as a facility enjoyed by the community, particularly so when the lack of a public house has been identified as an issue facing villages within the parish, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.

# PLANNING APPEAL PROGRESS REPORT - Week ending: 09.12.22

## WR – WRITTEN PRESENTATIONS

## HA – HOUSEHOLDER APPEAL

## IN – INFORMAL HEARING

## PI – PUBLIC INQUIRY

File Ref	Case Officer	Application No	Type	Appellant	Development	Appeal Status	Process Dates
	SS	22/00989/HOU (PINS: 3312867)	WR	Mr Angelo Carrino	39 Wykin Road Hinckley Leicestershire LE10 0HU (Proposed retention of fence(retrospective))	Awaiting Start Date	09.12.22
22/00020/ENF	CZ	20/01374/FUL 20/00080/UNBLDS (PINS: 3305795)	IH	Mr Mike Deacon	Breach Lane Farm Breach Lane Earl Shilton Leicester (Change of use of land for the storage, repair, restoration and sale of vehicles, associated shipping containers and area of hardstanding (mixed use) (part retrospective))	Start Date Notification Letter Hearing	25.08.22
22/00018/NONDET	LA	21/01470/OUT (PINS:3295558)	PI	Ms A Genco Harrow Estates	Land East Of The Common Barwell Leicestershire (Residential development of 110 dwellings with associated access, open space and landscaping (outline - access only))	Start Date Proof of Evidence Notification Letter Inquiry	18.08.22 10.01.23 17.01.23 07.02.23
22/00024/NONDET	LA	21/00695/FUL (PINS: 3308175)	IH	Barwell Capitol Ltd	Land at Crabtree Farm Hinckley Road Barwell (Residential development of 51 dwellings with associated access and parking)	Start Date Hearing Letter Hearing	19.10.22 07.12.22 10.01.23
22/00026/ENF	CZ	21/00203/UNBLDS	IH	Mrs Helen Judges	The Old Cottage	Start Date	16.08.22

		(PINS:3304677)			<b>Main Street Shackerstone</b> (Unauthorised siting of an outbuilding for use as a dwelling)	<b>Inquiry</b>	
22/00025/PP		21/00439/FUL (PINS:3306126)	WR	Mr James Borley	Land to the Rear of 122 Station Road Market Bosworth (Single dwelling with associated garaging, landscaping, and alterations to existing access)	Start Date Statement of Case Final Comments	07.11.22 12.12.22 26.12.22
		21/00674/FUL (PINS:3305662)	WR	Mr & Mrs & Mrs & Mrs Stephens and Arkle	19-21 Ratby Road Groby Leicester (Change of use from residential to commercial for No.21 Ratby Road, demolition of retaining walls and outbuildings and erection of two dwellings including the formation of new access and car park (resubmission of 20/01262/FUL)	Awaiting Start Date	23.08.2022
		20/00862/HOU (PINS:3273173)	WR	Mr Micky Ahluwalia	10 Rosemary Way Hinckley LE10 0LN (Two storey side and rear extension)	Awaiting Start Date	16.04.22
	DS	22/00572/OUT (PINS:3307030)	WR	J A & F Edwards Ltd	Land North 258 Ashby Road Hinckley Erection of up to 5 no. dwellings (outline – access only) land north of 258 Ashby Road, Hinckley, LE10 1SW (Resubmission of 21/01149/OUT).	Awaiting Start Date	15.09.22
	RW	22/00284/HOU (PINS:3307122)	WR	Mr & Mrs J. Farn	14 The Hawthorns Markfield (First floor and single storey side, front and rear extensions and other alterations)	Awaiting Start Date	16.09.22
		21/00674/FUL (PINS:3305662)	WR	Mr & Mrs & Mrs & Mrs Michael, Cathy	19-21 Ratby Road Groby (Change of use from residential to commercial for No.21 Ratby Road,	Awaiting Start Date	07.10.22

				& Pippa Stephens and Arkle	demolition of retaining walls and outbuildings and erection of two dwellings including the formation of new access and car park (resubmission of 20/01262/FUL))		
		22/00571/DISCON (PINS:3311343)	WR	Barwell Capitol	Land at Crabtree Farm Hinckley Road Barwell Leicestershire (Application to discharge Conditions 7 (Phasing plan),10 (construction environmental management plan), 14 (levels) attached to appeal decision APP/K2420/W/19/3222850 relating to application reference 18/00279/OUT)	Awaiting Start Date	17.11.22
		22/00198/P3CQ (PINS:3310910)	WR	Mrs Fay Baggott	Church Farm 83 Main Street Higham on the Hill (Conversion of the existing barn to a two-storey dwelling with associated alterations)	Awaiting Start Date	11.11.22
	SA	22/00801/FUL (PINS: 3311536)	WR	Mr John Fairall	59 Merrylees Road Newbold Heath Newbold Verdon (Proposed construction of two storey dwellinghouse and garage (following demolition of existing storage building) to the south of 59 Merrylees Road with associated access and landscaping)	Awaiting Start Date	21.11.22
	CZ	22/00804/CLE (PINS: 3311456)	WR	Mr S Chaudry  MAC Developments & Construction Ltd	Land South of Lindley Wood Use of land for commercial storage of plant, machinery and skips	Awaiting Start Date	18.11.22
22/00019/PP	CB	21/00787/OUT (PINS: 3300552)	IH	Penland Estates Limited, RV Millington Limited,	Land Northeast of Ashby Road Markfield LE67 9UB	<b>Awaiting Decision</b>	

				Sarah Higgins and Gavin Higgins	Residential development of up to 93 dwellings, public open space, landscaping and SuDS (Outline-access only) (cross boundary application with Charnwood BC)		
22/00017/PP	CB	21/01131/OUT (PINS: 3301735)	PI	Barwood Development Securities Ltd	Land off Sketchley Lane Burbage (Demolition of existing poultry and cattle buildings and residential development of up to 150 dwellings with vehicular access from Sketchley Lane (outline - vehicular access only))	<b>Awaiting Decision</b>	
22/00023/PP		22/00078/FUL (PINS: 3304167)	WR	Mr Shaan Chaudry	Land North of Lindley Wood Fenn Lane (Construction of entrance gates and wall (Part Retrospective))	<b>Awaiting Decision</b>	

#### Decisions Received

22/00015/PP	JA	21/01400/HOU (PINS: 3299592)	HA	Mr & Mrs M Parsons	48 Clarence Road Hinckley LE10 1DR (Proposed Loft Conversion to existing dwelling)	<b>Dismissed</b>	<b>08.09.22</b>
22/00011/PP	JPS	21/00130/FUL (PINS: 3288892)	WR	Mr & Mrs Chris and Mandy Wright	236 Ashby Road HINCKLEY LE10 1SW (Erection of two dwellings)	<b>Allowed</b>	<b>15.09.22</b>



21/00033/CLD	EC	21/00889/CLE (PINS Ref 3283791)	WR	Mr & Mrs Alec Moore 78 Main Street Bagworth	78 Main Street Bagworth (Certificate of Lawful Existing Use for the use of the outbuilding (only) to the rear of 78 Main Street, Bagworth as a maintenance, service, and repair workshop (resubmission of 20/01141/CLE))	<b>Allowed</b>	<b>03.10.22</b>
22/00009/PP	TV	20/01003/FUL (PINS 3286965)	WR	Mr Farhad Tailor	Oldlands Fenn Lanes Dadlington CV13 6DS (Indoor menage building)	<b>Dismissed</b>	<b>23.09.22</b>
22/00014/PP	TH	21/00556/FUL (PINS:3297466)	IH	Springbourne Homes Limited	Land Rear Of 5 - 15 The Coppice Burbage (Erection of No. 8 dwellings with associated access and landscaping)	<b>Allowed</b>	<b>27.09.22</b>
22/00016/PP		21/00159/OUT (PINS:3299049)	WR	Mr & Mrs K Kooner	Land adj to Four Acres Leicester Road Desford LE9 9JJ (Residential development of one dwelling (outline-access only))	<b>Dismissed</b>	<b>24.10.22</b>
22/00021/PP	MI	21/00981/FUL (PINS:3301962)	WR	Merriwell Properties Ltd	Land to the rear of 84,84A & 86 Leicester Road Hinckley (Erection of six detached dwellings)	<b>Dismissed</b>	<b>02.11.22</b>
22/00022/PP		22/00459/HOU (PINS:3305188)	HA	Mr Mathew Stachurski	7 Norwood Close Hinckley LE10 1TS (First floor side extension)	<b>Dismissed</b>	<b>08.11.22</b>
22/00001/ENF	CZ	20/00278/UNBLDS (PINS:3289687)	PI	Mr William Willett	Bungalow Farm The Paddocks Thurlaston	<b>Allowed</b>	<b>25.11.22</b>

					LE9 7TJ		
--	--	--	--	--	---------	--	--