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Hinckley & Bosworth
Borough Council

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

Date: 14 August 2023

To: Members of the Planning Committee

Cllr MJ Crooks (Chair)	Cllr C Gibbens
Cllr J Moore (Vice-Chair)	Cllr CE Green
Cllr CM Allen	Cllr E Hollick
Cllr RG Allen	Cllr KWP Lynch
Cllr CW Boothby	Cllr LJ Mullaney
Cllr SL Bray	Cllr H Smith
Cllr MA Cook	Cllr BR Walker
Cllr DS Cope	Cllr A Weightman
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, 22 AUGUST 2023** 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

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- **Do not** use the lifts.
- **Do not** stop to collect belongings.

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Thank you

PLANNING COMMITTEE - 22 AUGUST 2023

A G E N D A

1. **APOLOGIES AND SUBSTITUTIONS**

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

To confirm the minutes of the meeting held on 25 July 2023.

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. **23/00148/OUT - LAND SOUTH WEST OF LUTTERWORTH ROAD, BURBAGE (Pages 5 - 34)**

Application for outline planning application for the erection of up to 80 residential dwellings (Use Class C3), open space provision and associated infrastructure, with all matters reserved except access

8. **21/01295/OUT - LAND OFF DESFORD LANE RATBY (Pages 35 - 74)**

Application for outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access

9. **23/00349/HOU - 63 CHURCH WALK, SHACKERSTONE (Pages 75 - 84)**

Application for Tandem double garage

10. **22/00695/HYB - FACTORY UNITS 23 WOOD STREET, HINCKLEY (Pages 85 - 120)**

Application for hybrid planning application comprising: Outline application (access, appearance and scale to be considered) for the demolition of existing factory building and erection of a residential building comprising up to 12 residential units; a full application comprising the change of use of the existing factory building to residential including the addition of an extra storey and comprising 14 residential units

11. **23/00061/OUT - LAND ADJACENT TO LOCKEY FARM, HUNTS LANE (Pages 121 - 162)**

Application for residential development of up to 100 dwellings with associated public open space and infrastructure (All matters reserved except for access)

12. **23/00294/CONDIT - 339 RUGBY ROAD, BURBAGE (Pages 163 - 170)**

Application for variation of condition 2 and 8 of Planning Application 19/00413/FUL. Amendments to plans and landscaping

13. **APPEALS PROGRESS (Pages 171 - 176)**

To report on progress relating to various appeals.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

25 JULY 2023 AT 6.30 PM

PRESENT: Cllr MJ Crooks - Chair
Cllr J Moore – Vice-Chair
Cllr CM Allen, Cllr SL Bray, Cllr MA Cook, Cllr DS Cope, Cllr REH Flemming,
Cllr C Gibbens, Cllr DT Glenville (for Cllr E Hollick), Cllr CE Green,
Cllr KWP Lynch, Cllr LJ Mullaney, Cllr M Simmons (for Cllr RG Allen),
Cllr H Smith, Cllr BR Walker and Cllr A Weightman

Also in attendance: Councillor WJ Crooks and Councillor R Webber-Jones

Officers in attendance: Emma Baumber, Chris Brown, Rebecca Owen and Michael Rice

56. **Apologies and substitutions**

Apologies for absence were submitted on behalf of Councillors R Allen, Boothby and Hollick, with the following substitutions authorised in accordance with council procedure rule 10:

Councillor Glenville for Councillor Hollick
Councillor Simmons for Councillor Allen.

57. **Minutes**

It was moved by Councillor Bray, seconded by Councillor Cope and

RESOLVED – the minutes of the meeting held on 27 June be confirmed as a correct record.

58. **Declarations of interest**

Councillor Moore declared an other registrable interest in application 22/00224/FUL as a shareholder of Hinckley AFC.

59. **Decisions delegated at previous meeting**

It was reported that the decision in relation to application 23/00298/FUL had been issued and the S106 for application 20/00887/FUL was underway and would be issued shortly.

Having declared an interest in the following item, Councillor Moore left the meeting at 6.33pm.

60. **22/00224/FUL - Leicester Road Football Club, Leicester Road Football Ground, Leicester Road, Hinckley**

Application for proposed development of a multi-use games area with associated floodlighting and fencing.

The agent spoke on this application.

Members expressed concern about the comments from Sport England and it was moved by Councillor Bray and seconded by Councillor Cope that the application be deferred to obtain further information from Sport England and the Football Foundation to better understand their objections, and to allow for a site visit. They also requested that more information about the meaning within the condition relating to community use be included in the report. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – the application be deferred to obtain further information from Sport England and the Football Foundation and for a site visit.

Councillor Moore returned to the meeting at this juncture.

61. **23/00445/OUT - Lyndale, Lindridge Lane, Desford**

Outline application for proposed erection of four dwellinghouses with associated garages (all matters reserved except for access).

The agent and a ward councillor spoke on this application.

Notwithstanding the officer recommendation that permission be refused, members felt that the proposed development was acceptable and it was moved by Councillor Bray and seconded by Councillor Crooks that permission be granted with drafting of conditions delegated to the Head of Planning, to include a condition requiring retention of trees other than those that must be removed to install the site access and the footpath. It was also requested that the applicant considers installation of green energy sources and water retention tanks. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED –

- (i) Permission be granted subject to conditions;
- (ii) The Head of Planning be granted delegated authority to agree planning conditions, to include the abovementioned condition relating to retention of trees.

62. **23/00148/OUT - Land to the South West of Lutterworth Road, Burbage**

This application was withdrawn from the agenda for the meeting.

63. **Appeals progress**

Members were updated on progress relating to appeals. The report was noted.

(The Meeting closed at 7.02 pm)

CHAIR

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Committee Report 22nd August 2023
Report of the Head of Planning (Development Management)

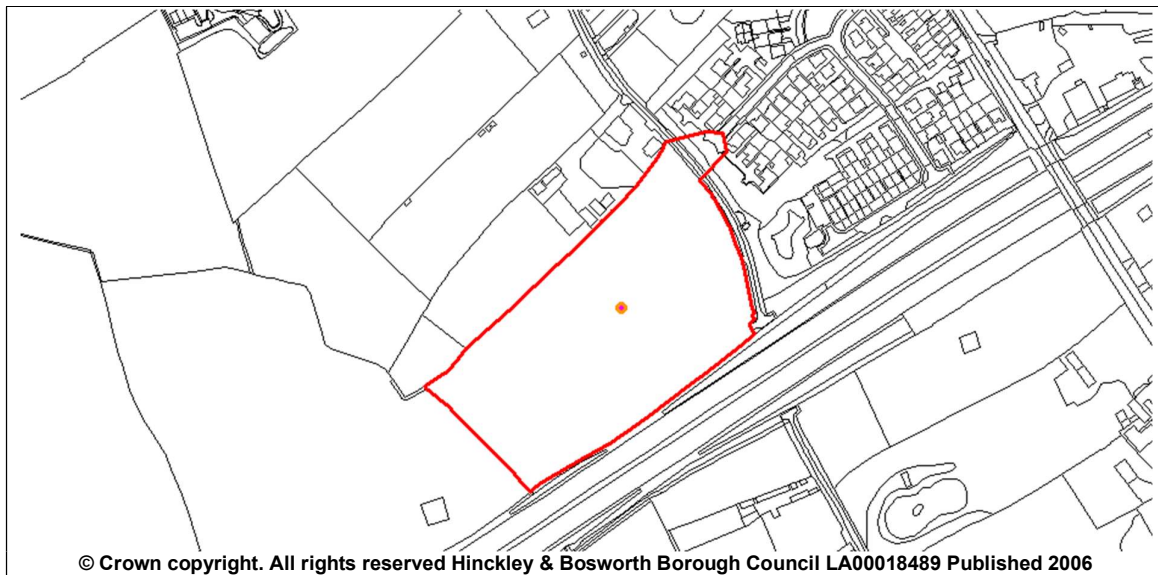


Hinckley & Bosworth
Borough Council

Planning Ref: 23/00148/OUT
Applicant: Redrow Homes and Peter Andrew Farmer
Ward: Burbage Burbage Sketchley and Stretton

Site: Land To The South West Of Lutterworth Road Burbage Leicestershire

Proposal: Outline planning application for the erection of up to 80 residential dwellings (Use Class C3), open space provision and associated infrastructure, with all matters reserved except access.



1. Recommendations

1.1. Grant planning permission subject to:

- S.106 (as per the Heads of Terms set out in this report), and;
- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks outline permission for the erection of up to 80 dwellings, open space and associated infrastructure, with all matters reserved except for access.
- 2.2. 20% of the dwellings would be affordable housing.
- 2.3. The Council has worked proactively with the applicant to overcome various issues during the planning process
- 2.4. The applicant sought pre-application advice on the proposal under reference 20/10146/PREMAJ. An application was made in 2021 ref 21/00502/OUT and refused by Planning Committee in August of 2022. An appeal has been lodged.

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

- 3.1. The application site is located to the south of Burbage town centre and to the west of Lutterworth Road and Workhouse Lane. The site includes access from Flanders Close (off Lutterworth Road) but the site lies to the west of Workhouse Lane. The site access will be made through the existing site boundary to the Flanders Close development, and require the removal of part of the approved noise mitigation fencing and bund.
- 3.2. The site is approximately 3.01 hectares in size and roughly rectangular in shape. The site is currently in agricultural use. The site abuts the M69 to the south and agricultural land to the west and north. Also to the northern boundary, the site abuts the dwelling 'Leachmore' and its curtilage.
- 3.3. The application site is located within flood zone 1. The site's topography slopes from east to west down to the watercourse, with the lowest part of the site in the south-west corner. Here, overhead cables from a pylon in the adjacent field cross the corner of the site.

4. **Relevant planning history**

21/00220/SCOPE

- Screening Opinion for Residential development of up to 80 dwellings.
- Opinion Issued
- 05.03.2021

21/00502/OUT

- Outline application for up to 80 dwellings. All matters reserved except for access
- Refused
- 16.08.2022

Relevant planning history for the adjacent site (from which the access is proposed):

20/01085/DISCON

- Application to fully discharge condition 13 (noise) attached to planning permission 15/01292/OUT
- Discharged
- 23.12.2020

18/01296/NOMAT

- Residential development for up to 80 dwellings open space and associated works (outline access only) - 15/01292/OUT
- Application Returned
- 03.01.2019

18/00918/CONDIT

- Variation of Condition 4 of planning permission reference 15/01292/OUT to enable the extension of construction working hours to 8:00-18:00 hours Monday to Friday and 8:00-13:00 hours on Saturdays with no working on Sundays or Bank Holidays. construction for up to 80 dwellings, open space and associated works (15/01292/OUT)
- Withdrawn
- 13.12.2018

17/00795/REM

- Approval of reserved matters (appearance, layout, scale and landscaping) of outline planning permission 15/01292/OUT for residential development of 72 dwellings).
- Permitted
- 10.11.2017

15/01292/OUT

- Residential development for up to 80 dwellings, open space and associated works (outline - access only) (resubmission)
- Permitted
- 27.01.2016

15/00028/PP

- Residential development for up to 80 dwellings, open space and associated works (outline - access only)
- Withdrawn
- 28.01.2016

14/01205/OUT

- Residential development for up to 80 dwellings, open space and associated works (outline - access only)
- Refused
- 02.04.2015

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.

11 Letters of objection have been received, raising the following concerns:

- The use of an originally planned cul de sac estate road being used as an access to a further 80 houses would leave the estate and join Lutterworth Road where there have already been several accidents just outside the estate
- New builds do not have sufficient off road parking, meaning many residents and visitors have to park on the road as it stands today. So one can only imagine how traffic will build up trying to get through to the larger, new estate
- Redrow sold this existing development on the grounds it was complete and all cul de sac homes.
- Insufficient capacity in local schools
- Insufficient capacity in local GP surgeries and Dentists
- Too much development
- Noise impact
- Construction traffic damage
- Impact on safety for users of Flanders Close and children
- Contrary to Burbage Neighbourhood Plan
- Out of character
- Air quality/pollution
- Lack of transparency relating to future developments to the west
- Loss of green corridor
- Impact on play area – The existing development does not have enough open space
- Removal of native trees and woodland

6. **Consultation**

6.1. No objection has been received from:

- LCC Ecology – subject to conditions in respect of Biodiversity Net Gain, Recommendations within the Ecological Appraisal, Construction and Environmental Management Plan, Breeding Birds and a Badger Survey
- LCC Minerals and Waste
- LCC Tree Officer
- LCC Archaeology
- National Highways – subject to conditions in respect of geotechnical risk (noise bund) and drainage details
- Leicestershire Police
- Environment Agency
- HBBC Waste – subject to a waste/recycling condition
- HBBC Environmental Health – subject to conditions in respect of contaminated land, construction hours, noise attenuation and a Construction Environmental Management Plan
- HBBC Conservation Officer
- HBBC Drainage – subject to drainage conditions
- S106 Monitoring Officer – Subject to suitable provision of play and open space areas and an off site sports contribution

6.2. Burbage Parish Council – Objection. It is deemed that the development would contravene planning policy DM10 (a) in that it would have a significant adverse effect on the privacy and amenity of existing residents. The proposed access via Flanders Close is felt to be unacceptable for reasons of highway safety, noise and air pollution, and loss of privacy, as it would generate high levels of extra traffic to the proposed new development, along what is currently a closed cul-de-sac. The proposed removal of a section of the acoustic screen and established trees behind it would also open residents to increased levels of noise pollution. The extra traffic generated by the proposed new development would exacerbate already excessive levels of traffic on Lutterworth Road, where the existing junction with the A5 is especially dangerous, and the proposed new properties would be subject to unacceptable levels of noise and air pollution, being so close to the motorway. Members do not agree with the supporting documentation assessment that the proposed highway arrangement would not be dangerous. It is already difficult and dangerous for traffic tuning right out of Lutterworth Road and this development would only compound the issue and likely encourage more traffic to travel back into the village to find an alternative route. Traffic data presented in support of the application is out-dated and no longer relevant. The addition of up to 80 new households in this area would add pressure of demand on already over-subscribed community provision, including GP surgeries, dentists, veterinary practices and schools. Figures provided by Hastings High School (secondary school) on the day the application was considered recorded a total of 846 pupils on roll - 31 more than the maximum approved pupil capacity of 815. In addition, the school had already received 388 application for only 165 available places for the 2023 September term. Following the national formula for estimating the number of school pupils likely to be generated by a new development, this proposed development would add an extra 14 pupils to the parish, without any proposed supporting provision. It is expected that similar extra pressure would be put on other schools in the parish.

6.3. LCC Drainage (LLFA) – Further Information required.

Further response received from the LLFA 22/06/2023 – No objection subject to conditions.

- 6.4. LCC Developer Contributions – Financial Contributions sought towards the following:
Waste - Barwell HWRC = £3,962.40
Libraries - Burbage Library = £2,415.82
Primary Education - Burbage Church of England Infant School and Burbage Junior School = £440,544.00
Secondary Education (11-16) Hastings High School - No requirement = £0.00
Post 16 Education - The Hinckley School - No requirement = £0.00

- 6.5. NHS Health Response – Financial contribution sought towards the Burbage Surgery and Station View Health Centre = £38,645.76

- 6.6. HBBC Affordable Housing Officer - 20% of the dwellings in the urban areas should be for affordable housing comprising:

4x properties should be provided as First Homes
8x properties for affordable rent and
4x for shared ownership.

This would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and meet the requirement for 10% of all dwellings for affordable home ownership. The preference would be for the affordable housing to be split between 2 bed 4 person and 3 bed 5 person houses and to meet Nationally Described Space Standards. The properties should be spread across the site and not clustered in one location. As this site is in the urban area, the section 106 agreement should contain a requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection. The Borough Council is following national guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values.

- 6.7. Local Highway Authority – The impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to the conditions and/or planning obligations outlined in this report.

7. Policy

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage
- Policy 5: Transport Infrastructure in the sub regional centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 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 DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards

- 7.3. Burbage Neighbourhood Plan
 - Policy 1: Settlement Boundary
 - Policy 2: Design and Layout
 - Policy 4: Parking
 - Policy 5: Footpaths and Cycleways

- 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)
 - Leicestershire Highway Design Guide
 - Landscape Character Assessment (2017)
 - Landscape Sensitivity Assessment (2017)
 - Open Space and Recreation Study (2016)
 - Housing Needs Study (2019)
 - Affordable Housing SPD (2011)
 - Leicestershire Minerals and Waste Local Plan

- 8. **Appraisal**
- 8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited. Nonetheless, the following represent the key issues
 - Principle of Development
 - Housing Land Supply
 - Housing Mix and Supply
 - Impact upon Highway Safety
 - Landscape and Visual Impact
 - Design and Layout
 - Residential Amenity
 - Flood Risk and Drainage
 - Ecology and Biodiversity
 - Heritage
 - Archaeology
 - S106 Heads of Terms
 - 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 previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS), was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024. The Replacement Local Plan is therefore delayed. Therefore little weight can be given to this.
- 8.5. The Core Strategy identifies housing allocations in a hierarchy of settlements within the Borough. Policy 4 relates to Burbage and seeks to support Burbage as local centre and its role in supporting Hinckley as a sub-regional centre. The Neighbourhood Plan updated the settlement boundary identified in the Hinckley and Bosworth Site Allocations and Development Management Policies (SADM) DPD (2016). Policy 1 of the Neighbourhood Plan (below) should be considered alongside DM1 of the SADMP and the presumption in favour of sustainable development will apply when development has been found to be sustainable. Policy 1 of the BNP states that:
- 'Residential development on land within or adjacent to the settlement boundary, as shown on Figure 2, page 19 will be supported, subject to complying with other development plan policy.'*
- 8.6. The site is adjacent to the settlement boundary, with the proposed access for this development crossing the settlement boundary from the end of a cul de sac, Flanders Close.
- 8.7. Policy DM4 of the SADMP states "that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.
- 8.8. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or

- c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.9. Despite the proposal not complying with Policy DM4, the proposal does accord with the Burbage Neighbourhood Plan Policy 1 and therefore it is considered that it does represent sustainable development in this location, subject to the material considerations set out below.
- Housing Land Supply
- 8.10. 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.
- 8.11. The Council has acknowledged at Public Inquiry and in public documents that it cannot currently demonstrate a deliverable 5-year housing land supply. As of 1st April 2022, the deliverable supply was 4.76 years.
- 8.12. The strategic housing policies are considered to be out-of-date and paragraph 11(d) of the NPPF is triggered. Planning permission should therefore be granted unless any adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is a material planning consideration to weigh in the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.13. Paragraph 60 of the NPPF relates to the government’s objective of significantly boosting the supply of homes, 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. The number of dwellings built in England between 2021-22 dropped to 232,816 well below the Government target for England of 300,000 pa.
- 8.14. 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”*
- 8.15. 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”.

- 8.16. 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.”*
- 8.17. The 2021/ 22 housing land monitoring statement is currently being prepared but on the basis of the previous years’ assessment, section 2.2 of the aforementioned monitoring statement required an action plan to be produced to set out how the Council will deal with under delivery in light of achieving 86% of the Housing Delivery Test (HDT).
- 8.18. 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.
- 8.19. The provision of up to 80 dwellings, 20% of which is to be Affordable Housing, is considered to be a significant benefit of the proposal and weighs heavily in favour of the scheme and would positively contribute towards the Council’s need for a 5 year housing land supply.

Housing Mix and Supply

- 8.20. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a ‘very good’ rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.
- 8.21. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.22. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus policy 16 is considered up to date in this regard.
- 8.23. Final number and mix of dwellings will be determined at Reserved Matters stage, but the illustrative layout shows a mix of types and sizes can be accommodated. The development is for up to 80 dwellings and the appropriate layout and density will be determined at Reserved Matters stage.
- 8.24. The Council’s Housing Officer has requested 20% of units on the site to be affordable, comprising:
- 4x properties should be provided as First Homes
 - 8x properties for affordable rent and
 - 4x for shared ownership.

The Housing Officer has stated that this affordable housing mix would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and meet the requirement for 10% of all dwellings for affordable home ownership. The preference would be for the affordable housing to be split between 2 bed 4 person and 3 bed 5 person houses and to meet Nationally Described Space Standards. The properties should be spread across the site and not clustered in one location. As this site is in the urban area, the section 106 agreement should contain a requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection. The Borough Council is following national guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values.

- 8.25. Subject to these requirements being met through the completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.

Impact upon Highway Safety

- 8.26. 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)).
- 8.27. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.28. 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.
- 8.29. Policy 4 of the Burbage Neighbourhood Plan (BNP) requires that new dwellings of 2 or more bedrooms accommodate at least two off-street car parking spaces within the curtilage of the dwelling.
- 8.30. Vehicular access to the site is proposed by seeking to extend the existing carriageway of Flanders Close (within Redrow's Ambion Way development) into the application site, which will in turn provide access onto Lutterworth Road. A combination of adopted road and private drives (built to adopted standards) will provide vehicular access to all of the proposed dwellings. Pedestrian/cycle access will be made available onto Workhouse Lane.
- 8.31. National Highways have no objection to the scheme, but have requested conditions in relation to drainage and geotechnical details in respect of the noise bund in order to ensure that the M69 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

- 8.32. A consultation response has been received from the Local Highway Authority. They do not object to the proposal subject to planning conditions and obligations.
- 8.33. The site, which is to the south of Burbage, is currently vacant agricultural pastureland. It is bound by agricultural fields to the north and west, with the M69 to the south and estate roads from Phase 1 to the east. The proposed development is described as Phase 2 of the Burbage Fields Farm development following the Phase 1 development in 2015 for 72 dwellings. The LHA is aware of several planning applications for the wider site, including the most recent application on the same parcel of land, 21/00502/OUT – Outline planning application for the erection of up to 80 residential dwellings (Use Class C3), open space provision and associated infrastructure, with all matters reserved except access which is the subject of an appeal.
- 8.34. In line with the 2021 application, vehicular and pedestrian access to the proposed development is by means of an extension to Flanders Close, Burbage. Flanders Close which is currently under a Section 38 agreement and was delivered as part of LPA ref: 17/00795/REM, then joins Passchendaele Drive and eventually B578 Lutterworth Road via a priority junction. The LHA had various discussions with the applicant regarding the access arrangements until they were considered acceptable.
- 8.35. The applicant has tested the site access design with the predicted flows in the 2025 Design Year + proposed development scenario. This predicts that the site access would operate within practical capacity in both the AM and PM peak hours. The applicant has included a Stage 1 Road Safety Audit (RSA) in Appendix G of the revised TA. The LHA has previously accepted the applicants Stage 1 RSA and Designer's Response to the issues and as the site access arrangements are the same submitted for the 2021 application no further comments are provided on this issue. Based on the information submitted and previous discussions, the LHA is satisfied that a safe and suitable access can be achieved in accordance with Paragraph 110 of the National Planning Policy Framework (NPPF). A condition for the delivery of the site access is advised.
- 8.36. It is noted that the applicant wishes to 'Stop Up' part of Workhouse Lane, Burbage. The LHA would advise that Section 249 of the Town and Country Planning Act 1990 may not be relevant to this planning application, as it refers to a proposal by a LPA to improve the amenity of an area, rather than the need for an extinguishment or diversion arising as a result of development. However the LHA acknowledge the LPA may have an alternative view on this. Therefore the applicant may wish to pursue the stopping up via section 247 or 248 of the Town and Country Planning Act in respect of Workhouse Lane. The LHA would advise the applicant that although not explicitly stated in those sections the Secretary of State may make such an order reserving highway rights for pedestrians / other classes of user as would be the case with Section 116 of the Highways Act 1980. However the LHA is not entirely sure whether the removal of the existing turning head on Flanders Close will require a stopping up of highway rights. The note on the Section 278 general arrangement plan states, 'Existing turning head/private drive to be re-constructed to suit proposed vehicle dropped crossing access', but this does not seem to include the whole area of the turning head. Nevertheless the LHA would agree that section 247 would appear to be the appropriate mechanism for any such stopping up. As Flanders Close is to be widened in part, the LHA would suggest this could be achieved by way of a S278/72 agreement. There is a possibility that this could be combined with the Section 38 agreement for the new road.

- 8.37. Notwithstanding the above, the LHA would advise the applicant to seek legal advice to ensure the correct areas of highway are stopped up and appropriate sections of road are amended.
- 8.38. With respect to highway safety, the applicant has reviewed the Personal Injury Collision (PIC) data for the period from 1 January 2017 to 4 November 2022 from Leicestershire County Council. The study area covers the B578 Lutterworth Drive (between A5 and Lychgate Lane), Windsor Street (between Lutterworth Road and Salem Road) and Lychgate Lane (between B578 Lutterworth Road and Flamville Road). There were 14 PICs during period under consideration. The key findings of the applicant's review are detailed below:
- 1 serious and 13 slight collisions in the study area during period under consideration; and
 - 1 collision in 2017, 2021 and 2022, five collisions in 2018, three collisions in 2019 and two collisions in 2020.

The applicant has concluded that based on the PIC record there is no spatial clustering or trends and there are no existing road safety issues that could be exacerbated by the proposed development. The LHA has reviewed its own database for the period from 1 November 2022 to 31 December 2022. There has been one more PIC on the local highway network covered by the study area. This additional collision occurred in November 2022 and was classified as serious. However, after a review of the additional PIC data the LHA is satisfied that there are no existing patterns / trends that could be exacerbated by the proposed development on the local highway network. Therefore, the LHA would not seek to resist the application based on the highway safety records.

- 8.39. The LHA accepted the trip rate, trip generation and trip distribution submitted by the applicant for the 2021 application. It should be noted that the applicant has again calculated the trip generation for the proposed development based on 86 dwellings rather than up to 80 dwellings as described in the planning application so the actual number of cars on the network would be slightly lower if the predicted trip rates are reflected in reality. The applicant has considered three other applications in their assessments of the four junctions in the area, Phase 1 of the Burbage Fields Farm development (LPA ref: 15/01292/OUT and 17/00795/REM), 135 dwellings at Lutterworth Road (Davidsons development: 19/01405/OUT) and 17/01043/HYB M69 Junction 1.
- 8.40. Following initial discussions with the LHA and National Highways the applicant has undertaken capacity assessments at the following junctions to understand the impact of the proposed development on the highway network:
1. Lutterworth Road / Flanders Close (site access);
 2. Sapcote Road / Hinckley Road / Burbage Road;
 3. Lutterworth Road / Lychgate Lane / Windsor Street; and
 4. Lutterworth Road / Davidsons development.

The LHA was previously satisfied that there are no capacity issues at junctions 1, 3 and 4 so no mitigation was required. The 2021 application indicated that a scheme of mitigation was required at junction 2 given the current and future performance of that junction. To address the impact of the proposed development at the Sapcote Road / Hinckley Road / Burbage Road junction the applicant has submitted a scheme of mitigation. The proposed highway improvement scheme put forward by

the applicant would involve replacing the current priority junction with a new signalised junction.

- 8.41. Following a review of the highway improvement scheme at the Sapcote Road / Hinckley Road / Burbage Road junction and the junction capacity analysis, the LHA accepts the applicant's conclusion that the highway improvement scheme will mitigate the impact of the development. A relevant condition is advised.
- 8.42. The applicant has also considered the transport sustainability of the site. The applicant is planning to provide pedestrian links from the proposed development to tie in with the existing footway provision on Flanders Close and then Lutterworth Road. These new links will be delivered to ensure connectivity to the proposed development and encourage residents to make non car journeys at times.
- 8.43. Based on the all the information submitted the LHA is satisfied that the applicant has demonstrated that a safe and suitable access to serve the proposed development could be delivered in line with Paragraph 110 of the National Planning Policy Framework. The applicant has also tested the impact of the proposed development on the local highway network and the LHA considers that the residual cumulative impacts of the development can be mitigated subject to conditions and financial contributions.

Landscape and Visual Impact

- 8.44. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where 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. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.
- 8.45. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the outline planning permission.
- 8.46. The site lies within a number of character areas at national, regional and local level. With respect to the national designation, it lies within the NCA 94 (Leicestershire Vales National Character Area), which is defined as large, relatively open, uniform landscape composed of low-lying clay vales interrupted by a range of varied river valleys. Its sense of place comes less from its overall landform, and more from its visually dominant settlements and views towards surrounding higher ground.
- 8.47. With respect to its regional designation, it is situated within the character area 5a (Village Farmlands) of the East Midlands Regional Landscape Character Assessment; which is defined as gently undulating lowlands dissected by stream valleys, localised steep slopes, moderately fertile loamy and clayey soils, mixed agricultural regime, small and moderately sized woodlands, hedgerows, and localised influence of large estates.
- 8.48. The site lies within the local landscape character area of LCA F (Burbage Common Rolling Farmland); defining characteristics of which include large scale, gently rolling arable and pasture farmland, some pockets of ancient woodland, medium to large scale rectilinear field patterns, urban fringe influences as a result of exposed settlement edges, major transport corridors dissecting the landscape and introducing noise, and green wedge providing green infrastructure to Burbage, Hinckley, Barwell and Earl Shilton.

- 8.49. The Landscape Sensitivity Assessment (2017) (HBBC) assesses the key sensitivities and values of the character area (8 – Burbage South and East) as being:
- Low hedgerows to field boundaries reflecting the post-medieval field pattern and form part of the overall ecological network
 - The semi-rural character of the area and its role as the setting to Burbage historic core
 - Woodland spinneys, streams and small water bodies in the area around Lutterworth Road provide ecological interest
- 8.50. It suggests that new development should:
- seek to avoid development on the higher ridge top area adjacent to the cemetery which forms the immediate rural setting to the historic core of Burbage – and maintain this area as a rural green wedge
 - Plan for successful integration of development in the landscape through sensitive design and siting, including use of appropriate materials & landscape mitigation to enhance sense of place.
 - Seek to retain historic field patterns where distinctive s-shaped or dog-leg boundaries remain.
 - Retain the pattern of hedgerows and hedgerow trees and incorporate further buffer planting to major transport corridors and new development.
 - Promote opportunities to maintain and enhance the network of rights of way and consider opportunities to create and promote integrated green infrastructure network around the Burbage, Hinckley, Barwell and Earl Shilton edge.
 - Protect localised areas that retain a natural character, notably the small areas of semi-natural woodland, plus the streams and small waterbodies.
- 8.51. Overall, the landscape in this character area is considered to have a low-medium sensitivity to residential development due to the strong influences of the existing settlement edge and the M69 on the rural agricultural character. Part of the area makes a positive contribution to the setting of Burbage (not this site). Hedgerows and hedgerow trees demarcate a historic piecemeal enclosure pattern and provide visual containment. The M69 restricts intervisibility with the wider landscape to the south.
- 8.52. It is of materiality to note that the area is not a 'valued landscape' for NPPF purposes. Indeed there are no landscape or environmental designations or sensitivities or note for the site and its immediate surroundings.
- 8.53. The LVIA submitted as part of the application assesses the proposals' impact on landscape as such:
- Ordinary Quality (not a good example of the character area)
 - Poor/Ordinary Landscape Value (based on scenic quality and landscape intactness)
 - Ordinary/good landscape value (site context - wider study area, particularly further south across the M69)
 - Low/medium sensitivity (some potential to accommodate change, particularly due to urban fringe and M69)
 - Medium/high sensitivity (site context – wider study area)
 - Minor/moderate adverse magnitude of change (i.e. the development would not constitute a significant effect on the character area)

- 8.54. The LVIA proposes 8 points of mitigation, which if integrated into the scheme at Reserved Matters stage would remove any significant negative effects. These are as follows:
1. Development set back from Workhouse Lane behind retained hedgerow and trees to preserve the existing rural character of the street.
 2. Development set back from the southern boundary of the site in order to maintain a physical and visual buffer to the M69.
 3. Development set back from the south western boundary of the site to allow the creation of a drainage area.
 4. The retention of mature trees and hedgerows on the perimeter of the site, particularly to the north and east.
 5. The provision of additional tree planting on plot and along streets to soften the character of the proposals and filter through views.
 6. Provision of open space and appropriate planting throughout the site.
 7. Consideration should be given to minimising any street lighting along the access road and if and where required, this should be low level lighting to reduce and visual impact during the day and evening.
 8. Provision of a landscape bund along the southern site boundary.
- 8.55. The application has demonstrated that it will not have an unacceptable impact on the surrounding area from a landscape character or visual impact perspective. This is considered as such when taking into account the council's lack of 5-year housing land supply and because this scheme will provide 80 dwellings comprising 20% affordable housing.

Design and Layout

- 8.56. 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.
- 8.57. Policy 2 of the Burbage Neighbourhood Plan (BNP) requires new development to respect its surroundings, follow the existing street pattern and retain existing important natural features on site.
- 8.58. 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.
- 8.59. Paragraphs 124-132 of the National Planning Policy Framework (NPPF) emphasises the importance of design of the built environment, stating that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- d) establish or maintain a strong sense of place, using the arrangement of streets spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) 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
- g) where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

8.60. This is an outline application and therefore detailed layout and appearance considerations are not being assessed at this stage - however, they will form details at the Reserved Matters stage if the outline application is approved. Notwithstanding this, the indicative plans illustrate that the development will be accessed through Redrow's recent 'Ambion Way development'. As such, the immediate context that the proposed development will sit within comprises Redrow's "Heritage" collection of homes. These dwellings feature design cues inspired from the Arts and Crafts movement of the early 20th century. Architectural features include:

- Bay Windows
- Brick Detailing
- Canopy Porches
- Traditional Brick, Render and Tile Palette
- Brick Detailing
- Mixed "Front" and "Gable" Elevations

The masterplan indicates that the development will comprise housing set back from the southern and western boundaries. A corridor of open space is proposed along the southern boundary with a larger area of open space proposed to the west of the site, where children's play equipment will be provided. The details submitted with the application indicate that dwellings will back / side on to the existing northern and eastern boundaries of the site, whilst dwellings facing out on to the western and southern boundaries will by their orientation help to provide natural surveillance over the public realm.

8.61. It is considered at this outline stage that the indicative design and layout proposals are acceptable and accord with the Development Plan Policies set out above.

Impact upon Residential Amenity

8.62. 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.

8.63. 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.

- 8.64. 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.
- 8.65. 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.
- 8.66. A baseline noise survey was undertaken to establish the existing noise levels across the site, this demonstrated that the site is constrained by noise from the M69 and that mitigation measures would be required in order to develop the site for housing and protect the amenity of future occupants.
- 8.67. The Environmental Health Officer has requested additional information with respect to a Noise Impact Assessment, Construction Environmental Management Plan and Land Contamination. These are all reasonable requests for information that can be appropriately sought through condition.
- 8.68. The concerns raised by the neighbours to the scheme are noted, but it is considered that the proposed conditions to be placed on the scheme (particularly those relating to noise, air quality and construction management), together with the Council's continued role in approving detailed plans at Reserved Matters stage, will ensure that sufficient scrutiny and control will be retained to ensure all concerns are addressed in full.
- 8.69. Subject to conditions and receipt of amended plans this application 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.
- Flood Risk and Drainage
- 8.70. 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.
- 8.71. 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.
- 8.72. Leicestershire County Council as Lead Local Flood Authority (LLFA) notes that the 3ha greenfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a medium to high risk of surface water flooding due to an on-site watercourse reaching the upstream end of a culvert. The proposals seek to discharge at 10.1 l/s via an attenuation basin to the on-site watercourse.
- 8.73. Subsequent to the previous LLFA response requesting further information the applicant has submitted surface water drainage strategy plans and accompanying calculations. The information provided is considered to be acceptable.

- 8.74. The watercourse connectivity is dependent on a culvert under the highway. The applicant should consider a condition assessment of this structure in the site's detailed design to ensure the long-term viability of the outfall.
- 8.75. Therefore subject to conditions, the proposal is considered to satisfy Policy DM7 of the SADMP and the requirement of the NPPF with respect to drainage and flooding matters.

Ecology and Biodiversity

- 8.76. 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.
- 8.77. LCC Ecology have been consulted on the application. They have responded to say that the Ecological Appraisal submitted with the application has identified relatively low prevailing habitat value and potential for notable and protected species. The layout and habitat plan includes a considered ecological mitigation and enhancement strategy given the scale and context of the proposed development.
- 8.78. Therefore subject to conditions as recommended by LCC Ecology the application is considered to be acceptable and in accordance with Policy DM6 of the SADMP and the requirements of the NPPF.

Heritage

- 8.79. 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.
- 8.80. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) Development Plan Document seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. All development proposals affecting the significance of heritage assets and their setting will be assessed in accordance with Policy DM11 and will require justification as set out in this policy. Policy DM12 requires all development proposals to accord with Policy DM10: Development and Design. Policy DM12 also states that all proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 8.81. The application site consists of an agricultural field to the west of Workhouse Lane situated to the south of the settlement of Burbage. There are no designated heritage assets within the site but some are located within a proportionate study area from this application site (particularly to the north) including the Burbage Conservation Area which is c.750m from the site boundary. Within the historic core

of the conservation area there are also a small number of listed buildings which includes The Church of St. Catherine, this being a Grade II* Listed building with a spire that is a prominent feature within the landscape, although this asset is c.1.4km north of the application site.

- 8.82. Local (non-designated) heritage assets are identified within the Burbage Neighbourhood Plan and there is a small cluster of assets along Lutterworth Road c.350m to the north of the application site and a building known as The Hollies on Lutterworth Road is c.400m to the south-east of the application site.
- 8.83. There is no inter-visibility between the application site and any of the designated and non-designated heritage assets identified above, 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 it is considered that none of the heritage assets would be sensitive to or affected by appropriate development within the application site.
- 8.84. It is therefore considered that the proposal will have no effect upon the significance of any designated heritage assets nor the non-designated heritage assets identified above and accords with Policies DM11 and DM12 of the SADMP and the requirements of the NPPF.

Archaeology

- 8.85. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.86. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified., local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.
- 8.87. Discussions between the applicant and LCC Archaeology led to the following actions being taken with respect to the previous application 21/00502/OUT:
- 15 trial trenches were excavated (3% of the total site area using a 13 ton tracked excavator (1.8m wide trenches)
 - Trenches re 30m in length to give as even a distribution as possible
 - Trenches 4, 7, 8 and 13 are placed to also intersect field boundary anomalies.
- 8.88. LCC Archaeology have responded to this application to say that they do not consider the proposal as submitted would result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. As such they have advised that the application warrants no further archaeological action. The application is therefore considered to be acceptable with respect to archaeological considerations and accords with Policy DM13 of the SADMP and the requirements of the NPPF.

S106 Heads of Terms

- 8.89. 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.
- 8.90. 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:
- A) Necessary to make the development acceptable in planning terms;
 - B) Directly related to the development; and
 - C) Fairly and reasonably related in scale and kind to the development.
- 8.91. The contributions sought are detailed below:
- Open Space – on site equipped children’s play space provision = **£52,395.84** (to be maintained by a management company)
 - Off site outdoor sports contribution provision = **£27,801.60** and maintenance = **£13,209.60** (towards Hinckley Road or Britannia Road)
 - Affordable Housing – **20% (16 units)**
4x properties should be provided as First Homes
8x properties for affordable rent and
4x for shared ownership
(The preference would be for the affordable housing to be split between 2 bed 4 person and 3 bed 5 person houses and to meet Nationally Described Space Standards. The properties should be spread across the site and not clustered in one location. The section 106 agreement should contain a requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection).
 - Primary Education - Burbage Church of England Infant School and Burbage Junior School = **£440,544.00**
 - Burbage Library Services = **£2,415.82**
 - LCC Waste Management Barwell HWRC = **£3,962.40**
 - Healthcare Burbage Surgery and Station View Health Centre = **£38,645.76**
 - A contribution of **£6,000.00** prior to commencement of development for the monitoring of the Residential Travel Plan and the effects of the development using the County Council’s monitoring programme payable prior to the occupation of any part of the development hereby permitted
 - Appointment of a Residential Travel Plan Co-ordinator from commencement of development until five years after the occupation of the last unit. The Residential Travel Plan Co-ordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.
 - Travel Packs (one per dwelling), identifying what sustainable travel choices there are in the surrounding area including incentives to encourage changes in travel behaviour towards the greater use of sustainable travel modes can be supplied through LCC at (average) **£52.85 per pack**

- Two x six-month bus passes per dwelling (application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services = cost of **£360.00 per pass**
 - Council Monitoring and Legal Fees
- 8.92. All of the above contributions are considered to meet the tests for planning obligations, and, will therefore form part of the S.106 legal agreement to be formulated should the application be approved.

Planning Balance

- 8.93. 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.
- 8.94. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. Therefore, 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.
- 8.95. The provision of up to 80 dwellings (20% of which to be affordable units) is considered to be a significant benefit of the proposal and weighs heavily in favour of the scheme.
- 8.96. The scheme does not fully comply with Policy DM4 of the SADMP but is considered to accord with Policy 1 of the Burbage Neighbourhood Plan. The impact on landscape and visual amenity has been assessed and is considered to be moderate to minor for this development and the provision of much-needed housing is considered to outweigh the moderate to minor impact identified. The scheme is deemed to be acceptable subject to conditions and also the requirements and financial contributions set out above to be agreed as part of a signed Section 106 Agreement.

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 completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - Open Space – on site equipped children’s play space provision = £52,395.84 (to be maintained by a management company)
 - Off site outdoor sports contribution provision = £27,801.60 and maintenance = £13,209.60 (towards Hinckley Road or Britannia Road)
 - Affordable Housing – 20% (16 Units)
 4x properties should be provided as First Homes
 8x properties for affordable rent and
 4x for shared ownership
 (The preference would be for the affordable housing to be split between 2 bed 4 person and 3 bed 5 person houses and to meet Nationally Described Space Standards. The properties should be spread across the site and not clustered in one location. The section 106 agreement should contain a requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection).
 - Library Services Burbage Library = £2,415.82
 - LCC Waste Management Barwell HWRC = £3,962.40
 - Primary Education - Burbage Church of England Infant School and Burbage Junior School = £440,544.00
 - Healthcare contribution towards Burbage Surgery and Station View Health Centre = £38,645.76
 - A contribution of £6,000.00 prior to commencement of development for the monitoring of the Residential Travel Plan and the effects of the development using the County Council’s monitoring programme payable prior to the occupation of any part of the development hereby permitted
 - Appointment of a Residential Travel Plan Co-ordinator from commencement of development until five years after the occupation of the last unit. The Residential Travel Plan Co-ordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.
 - Travel Packs (one per dwelling), identifying what sustainable travel choices there are in the surrounding area including incentives to encourage changes in travel behaviour towards the greater use of sustainable travel modes can be supplied through LCC at (average) £52.85 per pack

- Two x six-month bus passes per dwelling (application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services = cost of £360.00 per pass
 - Monitoring and Legal Fees
- Planning conditions outlined at the end of this report
- 10.2 That the Planning Manager be given powers to determine the final detail of planning conditions.
- 10.3 That the Planning Manager be given delegated powers to finalise the terms of the S106 agreement including trigger points and claw-back periods.

Conditions and Reasons

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

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

2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
 - a) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes
 - b) Landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges
 - c) Layout of the site including the location of electric vehicle charging points, the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes.
 - d) Scale of each building proposed in relation to its surroundings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

3. The development hereby permitted shall not exceed 80 dwellings in total and shall be in accordance with the following approved details:
 - Site Location Plan ref 1693-08-02-120 received 17 February 2023
 - Site Access general arrangement plan ref 19409-RLL-20-XX-DR-C 2100F

Where the above documents and plans include recommendations or propose mitigation measures, they shall be implemented in accordance with the approved details and timeframes and retained thereafter.

Reason: To ensure a suitable form of development comes forward in accordance with Policy DM3 of the Site Allocations and Development Management Policies DPD 2016.

4. All Reserved Matters submissions to be in broad accordance with the indicative layout as illustrated on Drawing Number RED0623 001 Rev E received 17 February 2023 and the Land Use Parameter Plan 002 Rev B received 17 February 2023.

Reason: To ensure the development broadly accords with the details/information submitted to inform the consideration of the outline application in accordance with Policy DM3 of the Site Allocations and Development Management Policies DPD 2016.

5. Land Contamination
 - a) No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with.
 - b) 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. Land Contamination Found Later
 - a) 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.
 - b) 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).

7. Noise Attenuation
 - a) Development shall not begin until a scheme for protecting the proposed dwellings from noise from the M69 has been submitted to and approved in writing by the Local Planning Authority
 - b). 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 suffer from annoyance as a result of nearby noise sources in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. No part of the development hereby permitted shall commence until details of the geotechnical risk relating to the noise attenuation bund have been submitted to and approved in writing by the Local Planning Authority in consultation with National Highways.
(The applicant should note that in accordance with paragraph A1 of Circular 02/2013, all noise fences, screening and other structures must be erected on the developer's land, and far enough within the developer's land to enable maintenance to take place without encroachment onto highway land).

Reason: To ensure that the M69 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

9. Prior to the commencement of development, full details of drainage and its location shall be submitted to and approved in writing the Local Planning Authority (in consultation with the Highway Authority for the M69). The development shall thereafter be undertaken in strict accordance with the approved details prior to the first occupation of the development hereby permitted and retained in accordance with the agreed specification. No surface water shall be permitted to run off from the development hereby permitted on to the Strategic Road Network or into any drainage system connected to the Strategic Road Network. No drainage connections from any part of development hereby permitted may be made to any Strategic Road Network drainage systems.

Reason: To ensure that the M69 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

10. No occupation of any dwelling shall take place until a scheme that makes adequate provision for waste and recycling storage of containers and collection across the site has been submitted to and approved in writing by the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The approved details shall be implemented prior to the occupation of the dwelling/unit to which the waste facilities are associated.

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).

11. a). 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.

- b) The agreed details shall be implemented throughout the course of the development.
- c). 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 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).

- 12. The development hereby permitted shall be carried out in accordance with the recommendations of Section 4.0 of the fpcr Ecological Appraisal dated Nov 2022 (Land to the South West of Lutterworth Road, Phase 2). Specifically the development should include the retention of existing hedgerows and recommended mitigation, provision of dark buffer zones and lighting strategies in relation to commuting and foraging bats and the retention of trees where there is potential for roosting bats and habitat creation.

Reason: To protect and enhance the landscape, flora and fauna in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 13. As part of the Reserved Matters submission a landscape and ecology management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall include the proposed ecological enhancement measures as set out within the habitat plan and ecological mitigation and enhancement strategy to ensure that Biodiversity Net Gain can be achieved on site and a mechanism for securing the implementation of the biodiversity off-setting and its maintenance/management for a period of 30 years in accordance with details approved in the Plan.

Reason: To protect and enhance the landscape, flora and fauna in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 14. No trees and shrubs shall be removed on site during the bird nesting season (1st March - 31st July inclusive) unless it has been previously surveyed by a suitably qualified ecologist and the absence of nesting birds has been confirmed.

Reason: To ensure the development does not have a detrimental impact upon nesting birds in accordance with DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 15. Prior to commencement of development a walkover survey for badgers shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any findings/recommendations.

Reason: To ensure the development does not have a detrimental impact upon badgers in accordance with Policy DM6 of the Site Allocations and

Development Management Policies DPD 2016 and the requirements of the NPPF.

16. No development shall commence on site until such time as the existing and proposed ground levels of the site and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
17. No development shall commence above foundation level until a scheme for the installation of electric vehicle charging points shall 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 details of the location fitting and timetable for installation 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.
18. A 'Building for a Healthy Life' assessment shall be submitted as part of the reserved matters submission details for this development. The details of the development shall incorporate the 12 considerations set out within the 'Building for a Healthy Life' document (Homes England) and parameters shall be agreed with the local planning authority and implemented on site in accordance with the approved details.
Reason: To ensure the site is delivers design quality, health and wellbeing provision and an integrated neighbourhood in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and Paragraph 130 of the NPPF.
19. No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages 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 external appearance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document 2016.
20. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. The development must

be carried out in accordance with these approved details and completed prior to first occupation of the development hereby approved.

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.

21. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

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

22. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

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

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

24. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum detail 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 Plan DPD 2016 and the requirements of the NPPF.

25. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on RLRE drawing number: 19409-RLL-20-XX-DR-C-2100 Revision F 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 accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021).

26. Development shall not commence before a scheme of highway improvements for the junction of Burbage Rd/ Hinckley Rd/ Sapcote Rd (as currently shown on drawing number: 19409-RLL-22-XX-DR-D-5006 Revision A) has been submitted to and approved by the Local Planning Authority. No dwellings shall be occupied before the improvements have been completed in accordance with the approved details.

Reason: To mitigate the impact of the development, in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021).

27. The measures and incentives included in RLRE, Document Ref: 19409-RLL-20-XX-RP-D-503, Residential Travel Plan (RTP), 'Burbage Fields Farm - Phase 2', Revision A, dated 12 July 2021 and submitted to the Local Planning Authority on 12 August 2021 shall be implemented in full from first occupation unless an alternative timetable is submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2021).

11. Notes to applicant

1. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
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. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations.

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

Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.

Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual householder ownership.

The results of infiltration testing should conform to BRE Digest 365 Soakaway Design. The LLFA would accept the proposal of an alternative drainage strategy that could be used should infiltration results support an alternative approach.

Planning Committee 22nd August 2023
Report of the Head of Planning (Development Management)

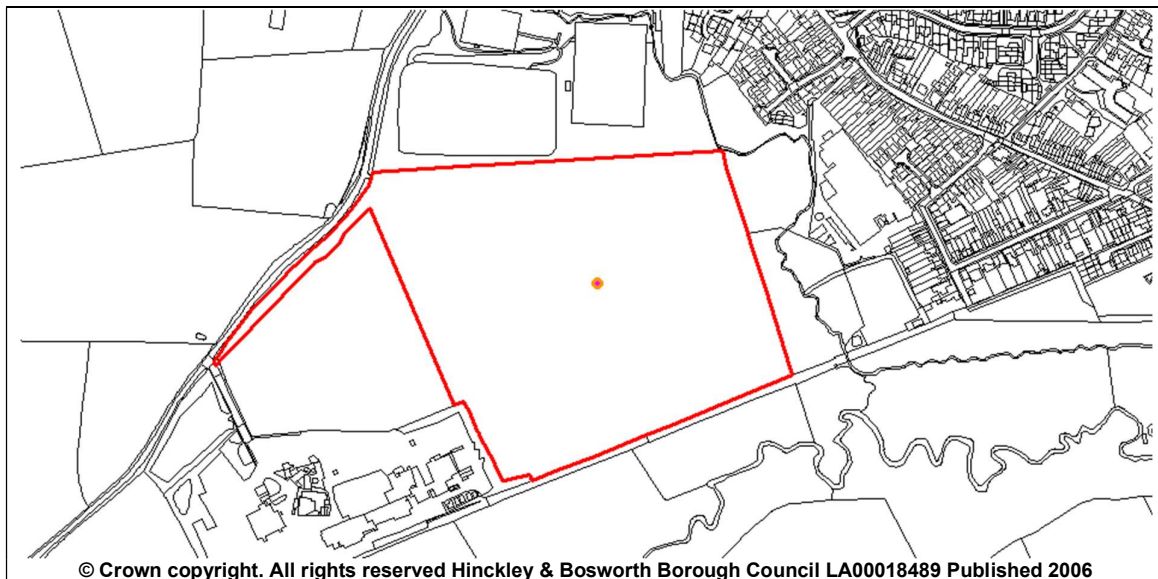


Hinckley & Bosworth
Borough Council

Planning Ref: 21/01295/OUT
Applicant: Gladman and Bletsoe
Ward: Ratby, Bagworth and Thornton

Site: Land off Desford Lane, Ratby, Leicestershire

Proposal: Outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access.



1. Recommendations

- 1.1. That the application be approved subject to:
- Conditions outlined at the end of this report
 - A S106 Agreement to secure the following:
 - Health contribution - £165,702.24
 - Library contribution - £6,794.48
 - Waste contribution - £5,370.75
 - Early Years Education contribution - £351,058.50
 - Secondary Education contribution - £815,310.00
 - SEND Education contribution - £127,008.97
 - 40% Affordable Housing provision – 90 homes comprising 68 for social or affordable rent (with local connection criteria) and 22 for intermediate tenure
 - 90 dwellings should be for affordable housing; 68 for social or affordable rent and 22 for intermediate tenure
 - Travel Pack provision of £52.85 per dwelling - £11,891.25
 - Bus Pass provision of £360 per person (maximum of two per dwelling) - £81,000
 - Travel Plan Monitoring Fee - £6,000
 - Highway contribution towards the Coalville Transport Strategy to enable works at the A50/Field Head junction - £62,754.00

Highway contribution for the introduction of a 40mph speed limit - £8,985.00
 Off site outdoor sports contribution - £78,192.00
 Off-site outdoor sports maintenance contribution - £37,152.00
 Off site natural green space contribution - £36,810.00
 Off site natural green space maintenance contribution - £63,900.00
 On site equipped children's play space contribution - £147,363.30
 On site equipped children's play space maintenance contribution -
 £142,236.00
 On site informal play space – n/a
 On site informal play space maintenance contribution – 40,824.00
 S106 monitoring fees

- 1.2. That the Head of Planning be given powers to determine the final detail of the conditions.

2. Planning Application Description

- 2.1. The application seeks outline permission for the erection of up to 225 dwellings (including 40% affordable housing), public open space and associated infrastructure that includes vehicular access, landscaping and a sustainable drainage system (SuDS), with all matters reserved except for access.
- 2.2. The new access is from Desford Lane in the form of a priority-controlled T junction with a ghost island right turn lane junction. Illustrative layout plans indicate the majority of trees and hedgerows on the site being retained and a mix of natural and semi-natural greenspace and amenity space being provided along with an equipped children's play space in the form of a LEAP in the western section of the site. Attenuation basins are indicated in the east and southern sections of the site. The existing footpath is indicated as being retained with a green corridor and new footpath links are indicated. Approximately 6.29 hectares of formal and informal green/open space is indicated.
- 2.3. The illustrative plans indicate the housing to be located in the northern and central areas of the site with green space to the peripheries of the site. The proposals indicate an average density of 38 dwellings per hectare, and a variety of dwellings and house types to include affordable housing.
- 2.4. The proposed new access arrangements include footway/cycle links and highway improvements on Desford Lane which comprise the following works:
- A priority-controlled T junction access junction to the east of Desford Lane (the main access into the site)
 - The introduction of a continuous 3m wide shared footway/cycleway along the east side of Desford Lane
 - Introduction of bus stops on both sides of Desford Road to the south of the access and a pedestrian island to connect the Site to the northbound stop
 - Traffic calming measures and street lighting on Desford Lane
 - A reduction of the speed limit to 40mph
 - A Toucan crossing on Desford Lane to the north of the site
- 2.5. The application is accompanied by the following reports and documents:
- Planning Statement
 - Design and Access Statement
 - Development Framework Plan
 - Socio-economic Sustainability Statement

- Affordable Housing Statement
- Statement of Community Involvement
- Transport Statement
- Travel Plan
- Foul Drainage Analysis
- Flood Risk Assessment
- Air Quality Assessment
- Noise Assessment
- Heritage Desk-Based Assessment
- Landscape and Visual Impact Appraisal
- Arboricultural Assessment
- Ecological Impact Assessment
- Odour Assessment
- Mineral Resource Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site covers an area of 12.2 hectares and is located to the south of Ratby, which is identified as a Key Rural Centre in the Council's Core Strategy. Ratby itself lies approximately 2 miles to the west of the Leicester Principal Urban Area that includes Glenfield, Leicester Forest East and Kirby Muxloe. Leicester city centre is 5 miles to the east and Hinckley lies 9 miles away to the south west.
- 3.2. The site is bordered by Desford Lane to the west, Ratby sports club/ pitches to the north and Stonecroft commercial site and disused railway to the south. Agricultural land lies to the east, south and west beyond Desford Lane. The proposed site access is within approximately 800m of the village centre. The current nearest bus stops are located on Desford Lane, approximately 700m to the north of the site. Blaby District lies to the south of the site.
- 3.3. The site currently comprises a single agricultural arable field, an area of roadside verge adjacent to Desford Lane is also included within the red line of the application. There are a number of hedgerows and mature trees within the site, particularly to the site boundaries. Land levels on the site fall from west to east with a difference of over 10 metres between the highest and lowest point of the site.
- 3.4. The application site is located predominantly within Flood Zone 1 on the Environment Agency Flood Maps for Planning with small areas to the south and east of the site, which is indicated as being used as informal open space and landscaping, lying within Flood Zones 2 and 3. A public footpath (PRoW R41) runs south eastwards from Desford Lane close to the south-west boundary of the site.
- 3.5. The site lies adjacent to the National Forest and the Charnwood Forest the boundaries of which lie to west on the opposite side of Desford Lane.

4. Relevant planning history

- 4.1. None

5. Publicity

- 5.1. The application has been publicised by sending out letters to the occupiers of 249 neighbouring properties. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

- 5.2. A total of 81 objections have been received from the occupiers of 62 neighbouring properties, raising the following concerns and points:

Principle of development:

- The site is outside the designated limits to development in the local plan
- Ratby has already had 267 dwellings over 3 sites in recent years which is too much for a village of this size
- The walking distances to Ratby is stated as 800m this is a very conservative estimate
- The developer has failed to demonstrate sufficient housing need for the development in Ratby
- The main economic benefit would be to the development landowner not the local community
- The development would contribute to increasing the size of the settlement to a level where the sense of community breaks down
- There is already sufficient house building underway at Lubbesthorpe and other areas in the region to meet need
- Objections under paragraph 80 of the NPPF and DM4 as intrusion into the countryside.

Infrastructure:

- The current infrastructure is unable to support the current habitants of the village with the school already being oversubscribed, only one village store and doctors currently present.
- In order for additional houses to be built, an additional school is a necessity not a desire.
- Kirby Muxloe school is full.
- There is insufficient secondary school provision

Roads/Highways:

- Ratby is a small village with one narrow main street
- The roads are already extremely chaotic and congested and an increase in more homes would only increase what is already a dangerous situation especially around school time.
- There are already parking problems, there is no car park in the village so drivers park on the road when using facilities
- As drivers park on the street you cant walk down the street without having to walk on the road
- The narrow lanes near the site are dangerous
- The approaches to Kirby Muxloe are heavily congests and includes HGV routes. These roads are dangerous and busy, the impact is of major concern to Kirby Muxloe.
- The lane is seems inadequate in width for emergency services and refuse collection vehicles.
- The bus only operates once an hour, there is no Sunday or evening service and tickets are expensive.
- No pedestrian or cycle links are indicated on the plans.
- The proposed access is near a blind bend
- There is not a safe walking route into the village
- The new bus stops would have a minimal reduction in car use

- Other villages along the routes to Leicester, the M1 and A46 will suffer from traffic overload and pollution
- The proposal conflicts with DM17

Flooding/Drainage:

- The area often floods and will be very wet no matter how much sustainable drainage there is
- The existing drainage system is already at capacity, concerns that the development will lead to drainage/flooding area for the surrounding areas.
- Objections under DM17 as the site is on a flood plain

Ecology:

- There isn't reference in the planning documents considering local bat colonies and deer populations
- The application fails to show that it meets the environmental aspects of sustainability. It claims that there would be an improvement of biodiversity on the site by planting a small area of trees. There is far more potential for improving the biodiversity of the site by leaving it all as green fields.
- The development may impact the National Forest as increase use of local woodlands may damage paths and increase littering and dog waste

Character/Design:

- The development would erode the separation of Ratby from surrounding villages
- The site is not in keeping with the local area
- Loss of green space/countryside is not acceptable
- The development would erode the identity of Ratby as a village
- The installation of street lighting at the entrance to the site would increase the drift toward urbanisation
- The increase in traffic will have a detrimental impact on the conservation area
- The site sits atop a hill making the application visually prominent within the context of the local landscape, conflicting with the Councils landscape character assessment 2017 and eroding the sense of rural environment.
- Conflict with DM10

Pollution:

- The increase in lorries and car are concern including in terms of pollution

Noise:

- Some of the proposed houses will be very close to the Stoneworks, has consideration been given to the fact they may want to sit in their gardens
- The additional cars will cause more noise particularly on Main Street

Other:

- Villagers already experience a high volume of power cuts due to additional residents
- HBBC has declared a climate emergency and this application is completely inconsistent with such a declaration
- The development would lead to a loss of arable agricultural land

6. Consultation

6.1. **Ratby Parish Council** – The Parish Council has employed a firm of solicitors to object on their behalf and the objection runs to 19 pages. It is therefore summarised below.

Principle of development:

- The development is in the countryside, outside of the settlement boundary and visually and physically separated from the southern edge of the settlement by 250m. Even with the recent grant of planning permission for a new medical centre at Desford Lane there is still a significant extent of undeveloped land between the application site and existing built development at Ratby.
- The proposals are for market housing in an inherently unsustainable location, outside of the settlement boundary of Ratby in the open countryside. There is therefore a fundamental objection to the principle of development in this location and it is considered that the proposals are contrary to the objectives of policies 7 and 8 of the Core Strategy, policy DM4 of the SADMP and paragraph 80 of the NPPF.
- The proposed development also conflicts with the objectives of Policy 17 of the Core Strategy, as it is a large scale housing development isolated from the settlement of Ratby.

Impact on the character of the countryside:

- The application site is highly visible within the surrounding landscape both from the north, within the settlement of Ratby, and from the south at Desford Lane. The site is visible from numerous locations within the public realm and will effectively appear as a new isolated settlement, some distance from Ratby.
- The proposed development will significantly change the character of both the immediate and wider surrounding area, in a location that is demonstrably sensitive to further development. The application site is located in a visually prominent location, in an area which has a recognised high amenity value in terms of views of the surrounding area.
- The proposals will introduce a significant quantum of built development on a site that has historically been undeveloped and used for agriculture, providing a rural vista into Ratby from the south-west. The proposals will also contradict the objectives of the Council's Landscape Character Study,
- The proposed footway will appear as a significant anomalous urbanising feature within the surrounding landscape.
- The proposals conflict with the objectives of Policy DM4 of the SADMP.

Noise and Amenity

- The submitted Noise Assessment confirms at paragraph 7.2.10 that the results of the BS4142 assessment indicate that, with no mitigation measures in place, noise levels from the industrial premises near to the site will exceed background sound levels during the night-time period at proposed sensitive receptors, resulting in significant adverse effects. Without a significant scheme of mitigation in place, the proposals will be in conflict with Policy DM7 of the SADMP and paragraph 174e of the NPPF.

Highway matters, traffic and transport concerns

- Concerns regarding the Transport Assessment including whether a sensitivity test has been undertaken, concerns about the timing of the data collection (April 2021) and lack of raw data for the A46 and A50. Concerns that the TA does not accurately assess the impacts of the proposals upon the surrounding highways network, and that the proposals, should they be granted planning permission, would lead to an unsafe highway environment. It is noted that, at present the swept path analysis for refuse vehicles results in vehicles overrunning into the right hand lane, which is concerning given the current layout of the road and lack of visibility from the site access when turning right toward Ratby.

- 6.2 **Kirby Muxloe Parish Council**- Strongly object on the following grounds:
- It is outside the settlement boundary and therefore contrary to Policy DM4
 - There are no bus stops on Desford Lane
 - Local primary schools are full
 - There is simply insufficient infrastructure to cope with the development
 - This will generate significant amounts of traffic on roads in Kirby Muxloe which are incapable of taking further commuter traffic
 - The development should not be considered in isolation and must be viewed in light of previously approved applications in the area by both Hinckley and Bosworth Borough Council and Blaby District Council

- 6.3 **Blaby District Council** – Strongly objects to the application. The proposal is within the countryside and therefore contrary to Policy DM4 of the Site Allocations and Development Management Policies DPD as well as policies 7 and 8 of the Core Strategy. The application site is divorced from the nearby settlement of Ratby and would have poor linkages to wider services and facilities. Having only one access into the site exacerbates these issues. There is also little opportunity to integrate into the wider cycle and footpath network. Consequently the development would create a car dominated and isolated settlement, with poor access to services and facilities, which therefore represents an unsustainable form of development contrary to the Development Plan and the National Planning Policy Framework. Blaby District Council is particularly concerned regarding the cumulative impacts arising from a development of this scale on the highway network. Of particular concern is the impact of the development both in terms of congestion and air quality at the Ratby Lane, Desford Road junction in Kirby Muxloe and on the A47 in Leicester Forest East.

The District Council also forwarded objections from Leicester Forest East Parish Council. The responses from the parish councils is to the consultation from Blaby rather than direct to HBBC in response to consultation on the planning application.

The Parish Council objects to the application on highway grounds, the impact on residents' health due to the effect on air quality due to increased traffic and the negative effect on local wildlife. If permission is granted pavements would be required on the A47 to allow safe pedestrian access.

- 6.4 **National Highways** – No objections

- 6.5 **LCC Highway Authority** – The Local Highway Advice (LHA) advice is that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.

The LHA had initially recommended refusal of the application and had then, after the submission of a revised Transport Assessment, advised that insufficient information had been submitted.

The LHA now advises that given the proposed off-site highway works, a speed reduction to 40mph on Desford Lane is accepted. The applicant will be required to contribute £8,985 towards the costs associated with the Traffic Regulation Order (TRO) required to relocate the speed limit and would be responsible for the installation of the TRO and a gateway feature.

Access to the site is proposed to be taken from Desford Lane, a C class road subject to the national speed limit. At the request of the LHA the Applicant has undertaken a

Road Safety Audit (RSA) which has not raised any problems with the proposed site access/ghost right turn lane other than the speed limit.

The LHA previously advised it did not consider a reduction in the national speed limit past the site as suggested by the Applicant to be necessary. However, given the proposed off-site works and recorded speeds, as well as the RSA1 recommendation to reduce the speed limit, the LHA has re-considered this advice and would accept a speed limit reduction to 40mph. The LHA advise that a 40mph buffer limit to the proposed gateway signs (at least 400m from the existing 30mph limit), dragons teeth gateway and 40mph Roundel markings should be installed at the village name plate signs.

The Applicant has stated that the redundant section of Desford Lane would be broken up and replaced with grass verge/ planting. This is welcomed by the LHA. The drawing also provides details of the access junction radii, which are considered to be acceptable. In respect of swept path analysis, vehicle tracking of a fire appliance has now been provided by the Applicant and is acceptable. The vehicle tracking of a refuse collection vehicle has not been raised as a concern in the RSA1 and it is accepted that, whilst it will over-run adjacent lanes, this would occur on an infrequent basis and it is not uncommon.

Vehicular visibility splays of 2.4 x 120m can be provided to the right of the access and 2.4 x 118m to the left, through realignment of Desford Lane along the site frontage. The Applicant has provided several drawings within Appendix C of the Transport Assessment to show how this is proposed to be undertaken. While the visibility splay to the left of the access is below the 120m which the LHA previously advised was required based on Part 3, Table DG4 of the Leicestershire Highway Design Guide ([LHDG] and the recorded vehicle speeds, as detailed within Part 4.4 of the TA, this is within the desirable minimum standards detailed within the Design Manual for Roads and Bridges (DMRB). The Applicant has stated that without realignment of the carriageway DMRB visibility splays could not be met. The LHA is content that the proposed visibility splays are acceptable.

The LHA Previously raised concerns with how the proposed development could impact existing accesses along Desford Lane, including the field access opposite the site access, Alexandra Stone access and additional field access opposite Alexandra Stone. Following the submission of vehicle tracking and the RSA the LHA is satisfied that the impacts would not be severe.

With regard to Personal Injury Collisions (PIC) and road safety the LHA identified a clear pattern of PICs at the Desford Lane/Botcheston Road junction involving four right turning PICs. Notwithstanding the above, since the previous highway observations provided by the LHA, the LHA advised that Leicestershire County Council have since identified the two existing Vehicle Activated Signs (VAS) close to the site for replacement and are also intending to install additional 'SLOW' markings at the junction. The LHA advise that a signing and lining scheme would have been considered proportionate for the level of traffic which would have been generated by the site. However, on the basis similar improvements to improve road safety are now planned by LCC, it is considered that the LHA would not require any additional works by the Applicant.

The anticipated trip rates and trip distribution are considered acceptable.

In order to consider the impact of the proposed development traffic on the surrounding road network the Applicant has undertaken capacity assessments at 11

junctions. The modelling shows that nine of the eleven junctions would operate within capacity. The LHA has advised that a contribution of £62,754 would be required towards improvements to the Field Head roundabout (Junction 10) as part of the extended Coalville Transport Strategy to mitigate the otherwise severe highway impact of the proposed development. In respect of the A46/A50 Groby Road/Markfield Road/Leicester Road roundabout the Ratio of Flow to Capacity (RFC) of the junction exceeds 85% predominantly in the AM peak and the greatest impact of the development would be on the 'A50(N) Ahead' link, where the RFC increases from 91.9% in the 2028 base scenario (without the development in place) to 93.3% in the 2028 With Development scenario. The RFC of the Leicester Road arm also increases from 92.2% to 93.4%. However, queueing and delays are only predicted to increase by approximately one vehicle and three seconds on the A50(N) Ahead link, while by approximately three vehicles and 7.5 seconds on the Leicester Road arm. Two links on the A46 (National Highways) arms of the roundabout would exceed 85% in the 2028 With Development scenario. However, the LHA have advised they do not have the evidence to demonstrate that this impact would be severe.

The LHA has been involved in extensive discussions with the LPA and the Applicant team in respect of the off-site works/implications. For Desford Lane the overall pedestrian and cycle strategy for the site includes the following proposals:

- Introduction of a 3.0m shared footway/cycleway with a 0.5m verge (where achievable) along the east side of Desford Lane and a short section on the west side of the road in the vicinity of the Pear Tree Business Park access;
- Introduce a pedestrian island to connect the site access to the northbound bus stop on Desford Lane;
- Introduction of traffic calming measures on Desford Lane;
- Reduce the speed limit along the site frontage; and
- Introduce a Toucan crossing on Desford Lane to the north of the site.

This has been judged acceptable subject to planning conditions.

The LHA previously advised that the Travel Plan was considered to be acceptable. Given the date of this however (February 2020) it is advised that it is updated to ensure it reflects the current situation and the LHA have therefore advised an appropriate planning condition.

It was previously advised that the LHA had concerns with the connectivity of the site with the village of Ratby, which the LHA considered to be poor. The Applicant had also confirmed that they were unable to provide a direct pedestrian link between the site and Station Road, for example via Brook Drive.

However, a shared use footway/ cycleway has now been proposed alongside Desford Lane leading up to the Pear Tree Business Park access. This now provides an improvement for cyclists in addition to pedestrians heading towards Ratby in the absence of any more direct links. While the lack of connectivity between the site and Ratby village is limited, given the proposed off-site works along with the provision of bus stops close to the site, which would serve the existing hourly bus service that runs along Desford Lane, the LHA could not sustain a reason for refusal regarding transport sustainability.

- 6.6 **LCC Minerals and Waste** – No objections based on the findings of the Mineral Assessment, compliance with policy M11 of the Leicestershire Minerals and Waste local Plan has been demonstrated.

- 6.7 **LCC Archaeology** – The proposed development area lies outside the historic settlement core of Ratby village, to the north of Rothley Brook and to the south of the projected line of the Via Devana Roman Road. The site has not undergone any previous archaeological investigation and our records show that there has been very little investigation within the surrounding area. The Leicestershire and Rutland Historic Environment Record (HER), supported by the submitted Desk-Based Assessment (DBA), indicates however that the site lies within a wider landscape that is rich in archaeological remains. Given the size of the development area and the apparent absence of modern ground disturbance there is good potential for archaeological remains to be present here, particularly relating to Roman activity.

The submission of a DBA, which is welcomed, is noted and its findings, which confirm the known archaeological potential of the site, are generally supported. It is recommended that this satisfies the desk-based element of the Archaeological Impact Assessment. The suggestion within the DBA that further evaluation could take the form of geophysical survey in the first instance, which would help to refine the subsequent trial trenching programme, is supported.

The preservation of archaeological remains is, of course, a “material consideration” in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, it is recommended that the planning authority defer determination of the application and request that the applicant complete an Archaeological Impact Assessment of the proposals.

This will require provision by the applicant for:

A field evaluation, by appropriate techniques including geophysical survey and trial trenching, if identified necessary in the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development. Further design, civil engineering or archaeological work may then be necessary to achieve this.

This information should be submitted to the planning authority before any decision on the planning application is taken, so that an informed decision can be made, and the application refused or modified in the light of the results as appropriate. Without the information that such an Assessment would provide, it would be difficult in our view for the planning authority to assess the archaeological impact of the proposals.

- 6.8 **LCC Ecology** – Having reviewed the submitted full biodiversity net gain metric this is acceptable and shows an 11.5% gain in habitat units and a 9.1% gain in hedgerow units. A detailed Landscape and Ecological Management Plan for the offsetting site should be required by condition to detail how the target habitat conditions will be delivered. The biodiversity net gain calculations should be re-run at reserved matters stage once detailed plans have been produced. Conditions are required regarding precautionary mitigation, further pre-commencement surveys a Construction Environmental Management Plan regarding habitats, lighting and landscaping.
- 6.9 **Lead Local Flood Authority** – It is noted that the site lies within Flood Zone 1 being at low risk of fluvial flooding with a small portion of the site at the southern boundary in Flood Zones 2 and 3 due to the proximity of the Rothley Brook watercourse. Development is shown to be outside these areas but despite this housing close to flood zone 2 have been recommended to have raised finished floor levels as per

LLFA standing advice. The site is shown to be at very low risk from surface water flooding. All other sources of flood risk have been appropriately assessed.

The drainage strategy provided demonstrates the site will discharge at QBar greenfield run off rates into the Rothley Brook, the drainage strategy includes attenuation storage and conveyance swales. The LLFA advises the LPA that the proposals are acceptable subject to planning conditions requiring a surface water drainage scheme to be submitted, appropriate maintenance schemes and infiltration testing.

6.10 **LCC Planning Obligations** – The following contributions totalling £1,305,542.70 are required as a result of this development:

- Waste – Whetstone RHWS - £5,370.75
- Early Years Education – Ratby Primary School - £351,058.50
- Secondary Education (11-18) – Brookvale Groby Learning Campus - £815,310.00
- Libraries – Ratby Library - £6,794.48
- Primary Education – Ratby Primary School – No requirement
- SEND Education – Forest Way School- £127,008.97

6.11 **Sport England** – Whilst the application is below the threshold on which Sport England would wish to comment and they do not intend to make comments the proposal has the potential to impact on the adjacent sports facilities. Sport England advise that the occupiers of the new development will generate demand for sporting provision. Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site.

In addition Sport England, in conjunction with Public Health England, has produced 'Active Design' (October 2015), a guide to planning new developments that create the right environment to help people get more active, more often in the interests of health and wellbeing. Whilst the proposal includes a number of circulatory paths and traffic free routes around the site, the pedestrian/cycle connections to and from the detached site appear limited to Desford Lane.

The layout, as currently indicated in the development framework, includes a separation of the new residential properties of around 15m to 20m to the southern boundary of Ratby Sports Club, which would be utilised as a linear open space containing a footpath/cycle route. Given the current layout of sports pitches there may be occasions when footballs cross the boundary and could therefore create issues. It is also noted that the noise assessment has not considered any impacts from the use of the sports facilities, which may indeed be low given the separation distances. The impact of the development on the use of the playing field may therefore be considered to be minimal, but this is not addressed or explained in the DAS.

An assessment of the potential impacts on the current and future use of Ratby Sports club should be submitted for consideration or the assessment undertaken so far should be clarified. In any event if the development is assessed as appropriate, the linear open space which separates the housing area from the sports club, should be secured by condition.

Notwithstanding the abovementioned concerns Sport England does not consider that there is so significant prejudicial impact on the existing facilities at Ratby Sports Club to warrant an objection to the development as currently proposed.

- 6.13 **Natural England** – No comments to make on the application but refers to standing advice.
- 6.14 **National Forest Company** – The application adjoins but falls outside the National Forest boundary. The planting on both sides of Desford Lane is noted and it is anticipated that full details of this will be covered by condition should the application be approved.
- 6.15 **Leicestershire Police** – No objections but provides advice.
- 6.16 **NHS England** – The GP practice closest to this development is Ratby Surgery which covers Ratby, Groby, Desford, Kirby Muxloe and Leicester Forest East/Lubbesthorpe, all areas which have seen a significant increase in population via new developments. The practice is currently preparing its final plans for the proposed new surgery. The Care Commissioning Group recognise that this will play a key role in supporting Ratby and the surrounding area in the future. For this reason the West Leicestershire Care Commissioning Group would like to seek S106 healthcare contributions towards the cost of improving clinical space in order to increase access for patients in the area. The proposed development generates a requirement for a contribution of £165,702.24 and this should be released prior to first occupation.
- 6.17 **HBBC Conservation** – There are no designated heritage assets within the application site boundary, but the proposal affects the significance of two designated heritage assets by being located within their wider setting.

The proposal will cause less than substantial harm to the Ratby Conservation Area and the Grade II* listed building the Church of St Philip and St James. The harm caused to heritage assets should be weighed against the public benefits of the proposal to be identified by the decision-taker. Should the balancing exercise not come out in favour of the proposal it should be refused due to its conflict with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD, the relevant paragraphs of the National Planning Policy Framework. In addition should the application of paragraph 11d of the NPPF be relevant for decision taking then it should be recognised that the Ratby Conservation Area and the grade II* listed building the Church of St Philip and St James are designated heritage assets of particular importance (as referenced in footnote 7).

There are no designated or non-designated heritage assets within the site boundary. The Ratby Conservation Area is c.250m north-east of the site boundary. The conservation area contains a small number of listed buildings, including the grade II* Church of St Philip and St James, and a reasonable number of buildings of local interest. Ratby Camp scheduled monument is located c.900m north-west of the site. There are other designated heritage assets within the wider area including a number within Kirby Muxloe to the south-east of the application site, which is within the local authority of Blaby District Council.

Although there are no designated or non-designated heritage assets within the application site there a small number of heritage assets located within the vicinity, as identified above.

The Grade II* listed building the Church of St Philips and St James is located c.500m to the north of the application site. The tower of the church is visible from various positions within the site and from the wider area looking over the site.

The southern boundary of the Ratby Conservation Area is located c.250m north of the application site. The conservation area encompasses the historic core of Ratby and includes the church, two other listed buildings and a number of buildings of local heritage interest. Due to the changes in topography and intervening development and vegetation there is limited intervisibility between the application site and much of the conservation area. Only the church is visible from the application site as it is located on a high point in the conservation area.

The application site is considered to fall within the setting of the Ratby Conservation Area and the Grade II* listed Church of St Philip and St James only.

The introduction of built form would curtail the visibility of the tower of the Grade II* listed Church of St Philip and St James from within the application site, limiting it at best to some possible glimpses from the indicative primary roads and the areas of green infrastructure. The surroundings in which remaining views would be experienced would likely be transformed from a predominantly agricultural and rural scene to a prospect dominated by new housing. The proposal would therefore have a negative effect on the ability to experience and understand the significance of the church from within its landscape setting. The level of these effects is considered to be minor adverse given that they arise from a proposal within the setting of the heritage asset rather than being a direct impact, and views to the church from within the site are not key views, such as those offered from historic routes to the church from nearby settlements. As the church is a heritage asset of high significance as a grade II* listed building and the level of the effects is minor the proposal is considered to have a moderate adverse impact upon the significance of the Church of St Philip and St James. In terms of the NPPF this level of harm should be considered as less than substantial, and likely towards the lower end of this spectrum of harm.

The reduction in visibility of the church tower from within the application site and the resulting transformation of the context of the views from a rural scene to one dominated by new housing will also have a negative effect upon the Ratby Conservation Area. The loss of a component of the agricultural hinterland of the historic settlement to built form will also have a negative effect upon the conservation area. The level of these adverse effects is considered to be relatively minor given that the effect on the conservation area as a whole is limited, with only one building being visible, and the site only forms a relatively small part of the rural context of the area, one within which there are few remnants of its medieval past. Given the medium significance of the heritage asset as a designated conservation area and the minor level of the effects the proposal is considered to have a negligible adverse impact upon the significance of the Ratby Conservation Area. In terms of the NPPF this level of harm should be considered as less than substantial, and likely at the very lowermost end of this spectrum of harm.

As the proposal would cause harm to the Grade II* listed building the Church of St Philip and St James and the Ratby Conservation Area the harm caused to these designated heritage assets 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.

It is considered that the proposal can demonstrate no particular heritage benefits, other than a possible minor increase in the amount of boundary hedgerow, thicket and tree planting along the realigned section of Desford Lane which would reinforce a key rural characteristic and positive contributor to the setting of the affected heritage assets.

- 6.18 **HBBC Affordable Housing** – As this scheme is in a rural area, policy set out in the Core Strategy (policy 15), indicates that 40% of the dwellings should be for affordable housing. Of these properties, 75% should be for social or affordable rent and 25% for intermediate tenure. This site will cross the threshold for the provision of affordable housing to be required. For 225 units, 90 dwellings should be for affordable housing; 68 for social or affordable rent and 22 for intermediate tenure. For this development, a spread of dwellings across all property types would be welcomed, including 1 bedroomed quarter houses or apartments, and bungalows.

The need for rented accommodation is therefore predominantly for smaller accommodation for single people or couples, or small families. Since Ratby is in the rural area of the Borough, the Section 106 agreement should include a cascade that the affordable housing for rent is offered firstly to people with a connection to the parish, and secondly to people with a connection to the Borough of Hinckley and Bosworth.

- 6.19 **HBBC Compliance and Monitoring** – They are providing a LEAP and a small trim trail along with SuDs to the development. The areas of play are welcomed in this area for the amount of houses being proposed as there is nothing within the vicinity. It is also not close to a formal park where outdoor sports can be played this should be provided by way of a MUGA or something similar for this part of Ratby. If no outdoor sports area is provided on site, a contribution would be sought for Boroughs Road recreation ground to make some improvements here for outdoor sport provision.
- 6.20 **HBBC Drainage** – No objections subject to conditions regarding surface water drainage.
- 6.21 **HBBC Environmental Health** – No objections subject to conditions regarding contamination, noise attenuation, lighting and a Construction Environmental Management Plan.
- 6.22 **HBBC Waste Management** – No objections subject to a condition regarding provision for waste and recycling storage and collection.
- 6.23 **HBBC Tree Officer** – The submitted tree survey and arboricultural impact assessment appears to be thorough and accurate. The proposals would appear to only significantly impact on roadside trees for Desford Lane highway purposes and these are mostly young immature, low category (Cat C) trees. It would probably be better to replace these prominent Cat C trees with different species of advanced nursery stock. Cat B tree(s) should be retained with appropriate protective barriers.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres Relating to Leicester
 - Policy 14: Rural Areas: Transport
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 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 DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards

- 7.3. Leicestershire Waste and Minerals Local Plan (2019)
 - Policy M11: Safeguarding of Mineral Resource

- 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 Guide
 - Landscape Character Assessment (2017)
 - Landscape Sensitivity Study (2017)
 - The Green Infrastructure Strategy (2020)
 - Open Space and Recreation Study (2016)
 - Heritage Strategy (2020)
 - Housing Needs Study (2019)
 - Affordable Housing SPD (2011)
 - Ratby Village Design Statement Supplementary Planning Document (2011)
 - Leicestershire and Rutland Historic Environment Record

8. Appraisal

- 8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited and relate largely to the principle of development. Nonetheless, the following represent the key issues:
 - Principle of Development
 - Housing Land Supply
 - Housing Mix and Supply
 - Impact upon Highway Safety
 - Impact on the Character and Appearance of the Area
 - Impact on Heritage Assets
 - Design and Layout
 - Residential Amenity
 - Flood Risk and Drainage
 - Ecology and Biodiversity
 - Archaeology
 - Trees

- S106 Heads of Terms
- Planning Balance

Principle of Development

- 8.2. 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. Paragraph 2 of the National Planning Policy Framework (NPPF) repeats this and states 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) and Leicestershire Minerals and Waste Local Plan (2019).
- 8.4. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS) was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024 with adoption due around January 2025. The Replacement Local Plan is therefore delayed and so is not considered to carry weight in the decision making process at this time.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough, Ratby is identified within the CS as a Key Rural Centre. The Hinckley and Bosworth Settlement Hierarchy Paper dated December 2021 states that Ratby is located in the east of the borough close to the urban area of Leicester and offers a broad range of services and facilities. It has a population of around 4,760 making it, in population terms, the third largest rural settlement in the borough. In the Local Plan, Ratby was classified as a Key Rural Centre. It benefits from the following key primary facilities – a primary school, a GP surgery, convenience stores, a post office, community halls and employment areas. Ratby also offers a broad range of secondary facilities including a library, pubs, restaurants, takeaways, places of worship and a pharmacy.
- 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. Paragraph 11d) of the NPPF states 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 proposed⁷; 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.”*

8.8. 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”*.

8.9. 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”*.

8.10. 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.”*

8.11. Development on this site would contribute to the housing land supply and consideration should be given to paragraph 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.”

8.12. 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.

8.13. The application site is located adjacent to the settlement of Ratby, albeit that it is separated from existing residential development by the Ratby Sports Club and its pitches to the north and by the Rothley Brook and its flood plain to the east and is on farmland which is designated as countryside. As such Policies DM4 of the SADMP is of most relevance with regard to the principle of development.

- 8.14. Policy DM4 of the SADMP states “that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.
- 8.15. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation
- and:
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii) It does not create or exacerbate ribbon development; with Core Strategy Policies 6 and 9; and
 - iv) If within a Green Wedge, it protects its role and function in line
 - v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21
- 8.16. The proposed development does not relate to any of the criteria above in Policy DM4, but this does not mean that the development is not sustainable. The application seeks to justify why development in this location might be deemed to be sustainable; and puts forward a reasonable assessment of how the proposal would contribute to sustainable development as required by the NPPF. The thrust of the justification for the proposal is that it responds positively to the identified lack of a five-year housing land supply in the Borough, includes affordable housing, public open space beyond normal requirements, mitigation of the scheme and other socio-economic benefits. The urbanising effects of the proposal are acknowledged by the applicant, but these are said to be minimised, so far as is possible, and acceptable. The proposal is also supported by a Landscape Visual Impact Assessment (LVIA) setting out the impact on the wider landscape character.
- 8.17. It is considered that the proposed development fails to comply with policies DM4. To the extent that Policy DM4 seeks to implement the Core Strategy through its approach to the countryside and settlement boundaries it is out of date. In terms though of the weight that should be afforded to Policy DM4 the emphasis of the policy is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is consistent with and accords with the NPPF, particularly paragraph 174b 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. Policy DM4 can therefore be afforded significant weight.
- 8.18. Paragraph 174 of the NPPF also requires that planning decisions recognise the benefits of the best and most versatile agricultural land. Most of the district falls with category 3, ‘good to moderate’, with some being ‘very good’ and a much smaller percentage being ‘poor’. Best and most versatile agricultural land is defined as being

grades 3a, 2 and 1. While no specific site assessment has been undertaken in this instance the site is used for the growing of crops as opposed to being land used for grazing. It is therefore highly likely that it would fall with category 3a and therefore be considered best and most versatile agricultural land. The loss of such land to agricultural use is not considered to be significant though given the fact that most of the district is also likely to fall within this same category and the provision of the new dwellings that the Borough needs will not be achievable using brownfield land or by using agricultural land of a lower grade.

- 8.19. 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.

Housing Mix and Supply

- 8.20. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.
- 8.21. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.22. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus Policy 16 of the CS is considered up to date in this regard.
- 8.23. Final number, mix of dwellings, layout and density will be determined at Reserved Matters stage, but the illustrative layout and Design and Access Statement shows that a mix of types, sizes and density of dwellings can be accommodated. The applicant has not undertaken a Building for Healthy Life Assessment (the replacement for Building for Life). A detailed assessment could be provided at Reserved Matters stage and could be required as a condition.
- 8.24. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.25. The housing officer has requested 40% of units on the site to be affordable, with a mix of 75% of those to be social or affordable rented and 25% intermediate tenure/shared ownership. The greatest need for affordable rented housing in the Borough is for smaller units of accommodation to assist single people or couples, or small families.

- 8.26. The applicant has indicated that the site will provide the policy-compliant requirement of 90 affordable homes including 68 for social or affordable rent and 22 for intermediate tenure. For this development, a spread of dwellings across all property types would be welcomed, including 1 bedroomed quarter houses or apartments, and bungalows. As this site is in the rural area, the Section 106 Agreement requires a cascade that the affordable housing for rent is offered firstly to people with a connection to the parish, and secondly to people with a connection to the Borough of Hinckley and Bosworth.
- 8.27. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.
- 8.28. The provision of up to 225 dwellings, 40% of which would be affordable homes, is considered to be a significant benefit of the proposal that would positively contribute towards the Council's need for a 5 year supply of housing land and to the need for affordable homes within the borough.

Impact upon Highway Safety

- 8.29. 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)).
- 8.30. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.31. Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 111 of the NPPF 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.
- 8.32. The applicant has been in lengthy discussions with the Local Highway Authority and National Highways to overcome a number of significant initial concerns that were raised. In response the applicant has submitted additional technical information, road safety audits, and proposals for offsite highway improvements. These are detailed above.
- 8.33. As a result of this additional information Highways England has no objections and the County Highway Authority advice is that the impacts of development on highway safety would not be unacceptable and the impacts on the road network would not be severe. The application includes several off site improvements as detailed below
- Provision of new northbound and southbound bus stops at the site frontage south of the main site access
 - Slight realignment of Desford Lane south of the main site access to improve visibility

- Introduction of a 3m shared footway/cycleway plus a 0.5m verge where possible, on the east side of Desford Lane and a short section on the west side in the vicinity of the Pear tree Business Park access;
 - Introduction of a traffic island to connect the site access to the northbound bus stop on Desford Lane
 - Introduction of traffic calming measures on Desford Lane
 - Reduction in the speed limit along the site frontage
 - Introduction of a Toucan crossing on Desford Lane to the north of the site at the new medical centre
- 8.34. Given the views of Highways England and the County Highway Authority, and subject to conditions, it is considered that the proposals accord with the requirements of the NPPF and Policy DM17 of the Site Locations and Development Management Policies Development Plan Document.

Impact on the Character and Appearance of the Area

- 8.35. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where 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. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.
- 8.36. 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.
- 8.37. 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.
- 8.38. The Council's Good Design Guide (2019) identifies design objectives for Ratby. These objectives seek to protect the setting of the Church (Church Lane), retain the dispersed built form and surviving farm buildings, protect the stone boundary treatments and resist the encroachment of modern domestic elements on a characteristically agricultural area. The Ratby Village Design Statement sets out the contextual analysis for the village and highlights the distinctive elements and characteristics of Ratby that should be considered. It includes details relating landscape features, green spaces, boundary treatments, highway and traffic.
- 8.39. The site lies outside but adjacent to the boundary of the National Forest and Charnwood Forest which lie to the north and north west of Desford Lane.
- 8.40. This development is for up to 225 homes with an average density of 38 dwellings per hectare alongside locally significant levels of open space and habitat creation. Housing on the most elevated parts of the site nearer the northern boundary are proposed to be of lower density than the remainder of the site. Whilst the mix of dwellings would be determined at subsequent Reserved Matters stages the indicative

proposals include a mixture of detached, semi-detached and terraced buildings providing a wide range of accommodation and tenure. The illustrative masterplan indicates that the proposed built development would be located within the central and northern parts of the site away from Stonecroft to the southwest and the flood zone to the east.

- 8.41. Approximately 6.29ha of land is indicated for new green spaces, predominantly but not exclusively to the southern and eastern edges of the site. This green space is proposed to include the retention of key landscape features (hedges and trees), informal public open space, childrens play areas, wildlife enhancement areas and a 'trim trail' along a new recreational route to the east of the site to provide a series of 'play on the way' stations. The indicative framework plan shows the retention of the existing public right of way on its current route in addition to a number of new pedestrian routes, which the applicant states are designed to allow access for all members of the Ratby community to the proposed new public green spaces. Attenuation basins are also proposed to the east and south of the site.
- 8.42. The site falls at the northern edge of Landscape Character Area D: Newbold and Desford Rolling Farmland in the Council's Landscape Character Assessment within the more general Rolling Farmland landscape type, comprising a sparsely settled area of undulating mixed farmland with local variations in topography influenced by small streams. Key characteristics of this landscape include "gently rolling landform rising to the north from the lower lying land around the River Soar", "predominantly arable farmland with clustered areas of industry and recreational facilities near to the village fringes", "open views where hedgerows have been removed, giving an impression of a large scale landscape".
- 8.43. Key sensitivities and values noted in the Assessment include "the rural settlement pattern of compact and nucleated agricultural settlements connected by a network of rural lanes and minor roads is largely unspoiled. The rural landscape and sense of tranquillity is sensitive to change from further development". "Long distance and panoramic views from the elevated land in the north creates a high scenic quality and adds to the visual amenity" and "The areas which provide a rural setting to the settlements are sensitive to changes as a result of new development, as well as views from the wider landscape to church spires." Three of the landscape strategies outlined in the Assessment include "conserve the relatively small-scale villages and ensure any new development contributes positively to the character and built vernacular", "conserve and enhance the long, panoramic views from higher ground of unclutters skylines and church spires" and "promote regeneration and enhancement of tree cover".
- 8.44. Key characteristics of the Urban Character Area 8 that comprises the majority of the village include "historic hilltop settlement with an open countryside setting to the west and south", "church of St. Phillip and St James...forms a clear focal point" and "settlement clearly visible from the surrounding landscape, on a hill rising from the flatter topography". Key sensitivities and values include "the open landscape to the west and south plays an important role in providing a rural context to the historic core" and "views and vistas of the Church of St Philip and St James which dominates the skyline from the surrounding countryside and within the settlement" and "the rural village character". Townscape strategies for Urban Character Area 8 include "ensuring that future new development respects the setting of the village and its rural interface, including historic landscape elements" and "protecting views and vistas of the church of St Phillip and St James, retaining its dominance on the skyline from the surrounding countryside".

- 8.45. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application and has been independently reviewed. While the review of the submitted LVIA is critical of many aspects of the Assessment and as is often the case in these matters there is a difference in opinion regarding the impact of the proposed development.
- 8.46. The site is unusual in that there are no existing dwellings in close proximity.
- 8.47. Overall, it is broadly agreed that the site is visually relatively well-contained albeit that it is visually exposed in views towards it from the south, reflecting the topography of the site and the presence of the Rothley Brook valley between the site and the locally elevated settlement fringes of Kirby Muxloe.
- 8.48. However, the character of the existing site and relatively few views from existing dwellings, footpaths, highways or other public viewpoints are such that the extent of landscape and visual effects will be relatively contained. The development framework plan indicates a commitment to a strong landscape treatment, particularly to the site's southern, eastern and western boundaries. This landscaping will, in the medium to longer term, enable the better integration of the development into the local context. The immediate proximity of the National and Charnwood Forests provides further justification for ensuring that the strong landscape envelope indicated is secured at reserved matters stage.
- 8.49. Overall, it is considered that the site is capable of accommodating development subject to an appropriate mitigation strategy as shown on the development framework plan without resulting in significant landscape or visual effects to the wider area. In the longer term it is considered that the effect on the character and appearance of the area and on the wider landscape will be limited. The proposed development is considered therefore to broadly accord with the requirements of Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document.

Impact on Heritage Assets

- 8.50. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.51. Section 16 of the NPPF provides national policy on conserving and enhancing the historic environment. In determining planning applications, paragraph 197 of the NPPF advises local planning authorities to take account of
- 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 viability; and
 - c. The desirability of new development making a positive contribution to local character and distinctiveness.
- 8.52. Paragraphs 199-202 of the NPPF require that great weight is 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. 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 directly or indirectly affect 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.

- 8.53. Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development 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.
- 8.54. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets. All development proposals which have the potential to affect a heritage asset, or its setting will be required to demonstrate:
- a. an understanding of the significance of the heritage asset and its setting; and
 - b. the impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
 - c. how the benefits of the proposal will outweigh any harm caused; and
 - d. any impact on archaeology in line with Policy DM13.
- 8.55. Policy DM12 requires all development proposals to accord with Policy DM10 and states that development proposals should ensure that development proposals should make every effort to retain the significance of locally listed heritage assets.
- 8.56. There are no designated or non-designated heritage assets within the site boundary. The Ratby Conservation Area lies approximately 250m north-east of the site boundary. The conservation area contains a small number of listed buildings, including the grade II* Church of St Philip and St James, and a reasonable number of buildings of local interest. Ratby Camp scheduled monument is located approximately 900m north-west of the site. There are other designated heritage assets within the wider area including a number within Kirby Muxloe to the south-east of the application site, which is within the local authority of Blaby District Council.
- 8.57. The site would have been part of the agricultural hinterland to settlement at Ratby in the medieval period. The Heritage Desk-Based Assessment (HDBA) undertaken on behalf of the applicant identifies traces of ridge and furrow earthworks within the site which are consistent with the medieval use of the area, and the site has remained in agricultural use to the present day.
- 8.58. The Council's Conservation Officer has assessed the submitted Heritage Desk-Based Assessment and considers that it is proportionate and meets the requirements of paragraph 194 of the NPPF and Policy DM11 of the SADMP.
- 8.59. Although there are no designated or non-designated heritage assets within the application site there a small number of heritage assets located within the vicinity, as identified above. The Conservation Officer considers that due to factors such as distance, intervisibility and function the site does not fall within the setting of Ratby Camp or the designated heritage assets located to the south-east of the application site within Kirby Muxloe. Therefore these heritage assets would not be sensitive to or affected by an appropriate form of development within the application site.

- 8.60. The site does however fall within the setting of the Church of St Phillips and St James and the Ratby Conservation Area.
- 8.61. The Grade II* listed building the Church of St Philips and St James is located approximately 500m to the north of the application site. The application site, as agricultural land, does not make any direct contribution to the significance of the church. Intervening built form prevents views of the churchyard and main building from the application site. However, the tall church tower is visible from large parts of the surrounding area giving it a commanding presence in the wider rural and agricultural landscape that surrounds the village. The application site forms part of this wider agricultural landscape and forms part of the wider setting to the church. The church tower is visible from various sections of the application site, and such views allow for an understanding and appreciation of the significance of the church from within its rural setting. Conversely, views of the application site from the churchyard are heavily filtered by trees and the site is not prominent in these views. As such views from the church to the site do not make any appreciable contribution to its significance.
- 8.62. The southern boundary of the Ratby Conservation Area is located approximately 250m north of the application site. The Ratby Conservation Area principally derives its significance from the historic and architectural interest of its associated spaces and historic buildings, including listed buildings and buildings of local interest, as well its historic settlement layout. Agriculture has been a component of the historic development of the village which has influenced its layout and settlement form, so due to the application site forming part of its agricultural hinterland it is considered to make a direct and positive contribution to the conservation area. Given the relatively limited size of the site as a component of a larger rural context, distance of the application site from the historic core the village, and only being limited remnants of the medieval rural landscape within the site this contribution to the conservation area as a whole is considered to be minor. The application site is only visible from few locations within the conservation area, mainly from within the higher ground of the churchyard. The site does not form part of the important 'views or vistas to be protected' within the Ratby Conservation Area Appraisal (RCAA) (2014), and where visible it forms a minor part of its surrounding rural hinterland. From the application site the only part of the conservation area that is visible is the church tower, so whilst this allows for some appreciation of the significance of the conservation area, considering the conservation area as a whole views from within the site can be considered to only make a negligible contribution to its significance.
- 8.63. The introduction of built form would curtail the visibility of the tower of the Grade II* listed Church of St Philip and St James from within the application site, limiting it at best to some possible glimpses from the indicative primary roads and the areas of green infrastructure. The surroundings in which remaining views would be experienced would likely be transformed from a predominantly agricultural and rural scene to a prospect dominated by new housing. The proposal would therefore have a negative effect on the ability to experience and understand the significance of the church from within its landscape setting. The level of these effects is considered to be minor adverse given that they arise from a proposal within the setting of the heritage asset rather than being a direct impact, and views to the church from within the site are not key views, such as those offered from historic routes to the church from nearby settlements. As the church is a heritage asset of high significance as a Grade II* listed building and the level of the effects is minor the proposal is considered to have a moderate adverse impact upon the significance of the Church of St Philip and St James. In terms of the NPPF this level of harm should be considered as less than substantial, and likely towards the lower end of this spectrum of harm.

- 8.64. Conversely, as views of the application site from the churchyard are heavily filtered by trees the site is not prominent in these views. As such views from the church to the site do not make any appreciable contribution to its significance and this position is not considered to be altered by the proposed development.
- 8.65. As above the reduction in visibility of the church tower from within the application site and the resulting transformation of the context of the views from a rural scene to one dominated by new housing will also have a negative effect upon the Ratby Conservation Area. The loss of a component of the agricultural hinterland of the historic settlement to built form will also have a negative effect upon the conservation area. The level of these adverse effects is considered to be relatively minor given that the effect on the conservation area as a whole is limited, with only one building being visible, and the site only forms a relatively small part of the rural context of the area, one within which there are few remnants of its medieval past. Given the medium significance of the heritage asset as a designated conservation area and the minor level of the effects the proposal is considered to have a negligible adverse impact upon the significance of the Ratby Conservation Area. In terms of the NPPF this level of harm should be considered as less than substantial, and likely at the very lowermost end of this spectrum of harm.
- 8.66. As the proposal would cause harm to the Grade II* listed building the Church of St Philip and St James and the Ratby Conservation Area the harm caused to these designated heritage assets 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.
- 8.67. 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. 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 applicant has provided some justification for the low level of harm caused as summarised within the HDBA.
- 8.68. 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). The proposal can demonstrate no particular heritage benefits, other than a possible minor increase in the amount of boundary hedgerow, thicket and tree planting along the realigned section of Desford Lane which would reinforce a key rural characteristic and positive contributor to the setting of the affected heritage assets. This is likely to be only a minor heritage benefit. Non-heritage economic, social and environmental benefits can be demonstrated by the proposal. This balancing exercise is undertaken within the conclusion.

Design and Layout

- 8.69. 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.
- 8.70. 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.

- 8.71. This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage - however, they will form details at the Reserved Matters stage. Notwithstanding this, the indicative plans illustrate that the development will comprise up to 225 dwellings with access into the site from Desford Lane. It provides a reasonable approach to the scheme that will flow through into the detailed plans submitted at Reserved Matters stage and indicate that a suitable form of development could be brought forward in accordance with Policy DM10 of the SADMP and the Good Design Guide SPD.

Impact upon Residential Amenity

- 8.72. 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.
- 8.73. 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.
- 8.74. 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.
- 8.75. 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.
- 8.76. There are no residential properties which immediately adjoin the site and it is considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable internal relationship for proposed residential units.
- 8.77. Concerns have been raised by residents with regards to the proximity to adjacent commercial units and the potential for noise disturbance, alongside concerns regarding pollution as a result of the development. The HBBC Environment Officer has reviewed the submitted Air Quality Assessment and has judged this to be acceptable subject to mitigation during the construction phase of development. The Odour Impact Assessment is judged to be satisfactory and the Environment Officer does not foresee odour having a significant impact on the site.
- 8.78. With regards to noise, the Environment Officer has reviewed the submitted noise investigation and noted that mitigation is required to reduce noise impact from adjacent commercial operations which it is predicted without such mitigation the

impact at night is predicted as significant. Some properties will require closed windows and ventilation scheme to achieve standards. However, the noise investigation is based on the indicative layout, the investigation will need to be reviewed and mitigation incorporated at Reserved Matters stage. Therefore the Environment Officer has raised no objection subject to a condition requiring a reviewed noise investigation and mitigation strategy.

- 8.79. Additional information with respect to contamination, a Construction Environmental Management Plan and lighting are recommended via condition.
- 8.80. It is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, would ensure that sufficient scrutiny and control would be retained to ensure all concerns are appropriately addressed. Therefore it is considered that the proposed development could be designed such 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.

Flood Risk and Drainage

- 8.81. 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.
- 8.82. 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.
- 8.83. The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning being at low risk of fluvial flooding, with a small part of the site, predominantly at the southern boundary being in Flood Zone 2 and 3 due to the proximity of the Rothley Brook watercourse.
- 8.84. Whilst detailed layout and design would be finalised at Reserved Matters stage the proposals show development located outside of Flood Zone 2 and 3, with housing close to Flood Zone 2 having raised finished floor levels as per the Lead Local Flood Authority (LLFA) Standing Advice. The site is at very low risk from surface water flooding and the LLFA considers that all sources of flood risk have been appropriately assessed.
- 8.85. The drainage strategy provided demonstrates the site will discharge at QBar greenfield runoff rates into the Rothley Brook at three separate outfall locations for the three site sub-catchments identified from the topographical survey. Attenuation is provided to achieve this suitable to store surface water drainage from the impermeable areas up to the 1 in 100 year return period plus a 40% allowance for increase in projected volumes due to climate change and 10% increase in impermeable areas due to 'urban creep'. It is explained within the flood risk assessment and drainage strategy report that source control SuDS such as permeable paving will also be considered in detailed design.
- 8.86. The drainage strategy includes conveyance swales within the largest site sub-catchments to the attenuation basins rather than a pipe run. Although the inclusion of these SuDS is welcomed by the LLFA and should be retained, the detailed design should carefully consider adoption and maintenance responsibility of these.

- 8.87. Both the LLFA and the HBBC Drainage Officer advises that the proposals are acceptable subject to conditions to secure a surface water drainage scheme, management and maintenance of surface water and infiltration testing. No objections have been received from Severn Trent and the scheme accords with the Environment Agency standing advice given that all dwellings and gardens would be within flood zone 1. Subject to the suggested conditions, it is considered that the proposed development would satisfy Policy DM7 of the SADMP and the NPPF.

Ecology and Biodiversity

- 8.88. 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.
- 8.89. The ecology reports submitted with the application indicates that the site is predominantly arable with mature boundary vegetation. No evidence of badger or their setts were recorded onsite other than footprints, although there is potential for an offsite sett in proximity to the site. There were no ponds on site and great crested newt was considered unlikely to be present. An otter spraint was recorded on an offsite bank, but no opportunities for shelter or breeding was recorded on or adjacent to the site. The County Ecologist has assessed the information and considers that the report is satisfactory subject to conditions.
- 8.90. A full biodiversity net gain (BNG) metric has been submitted and reviewed by the County Ecologist and is acceptable. This shows a 11.51% gain in habitat units and 9.11% gain in hedgerow units. A detailed Landscape and Ecological Management Plan for the offsetting site should be required by condition, to detail how the target habitat conditions will be delivered and the BNG calculations should be re-run at reserved matters once detailed plans have been produced.
- 8.91. Subject to the condition requirements this application is considered be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Archaeology

- 8.92. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.93. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified., local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.

- 8.94. Paragraph 203 of the NPPF 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 and that in weighing applications that directly affect non-designated assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.95. The County Archaeologist submitted a consultation response in just the last few weeks despite having been originally consulted when the application was originally submitted. It is considered therefore that it would be disproportionately unreasonable in these circumstances for the applicant to be required to undertake further work at this point prior to the consideration of the application. The application is submitted in outline with an 'up to' figure regarding the maximum number of dwellings. It is considered that in the circumstances a condition ensuring that no works take place until the field evaluation has been undertaken, submitted, assessed and approved is, on this occasion, acceptable in this instance.

Trees

- 8.96. Policy DM6 of the SADMP sets out that on site features should be retained, buffered and managed favourably to maintain their ecological Value, connectivity and functionality in the long term.
- 8.97. In this instance the Borough's Tree Officer has commented on the proposals and does not have significant concerns. In addition the proposals provide for significant new tree planting.
- 8.98. It is considered therefore that the proposal is acceptable with regard to the requirements of policies DM6.

Mineral Safeguarding

- 8.99. The site lies within a Sand and Gravel Mineral Consultation Area. In order to comply with policy M11 of the Leicestershire Minerals and Waste Local Plan which seeks to protect mineral resources for the long term for future generations the applicant was required to submit a minerals assessment.
- 8.100. The minerals assessment found that it is highly unlikely that the mineral would ever be worked and the mineral is therefore no longer of any value or potential value. LCC planning department therefore consider that compliance with policy M11 has been demonstrated and have raised no objection to the development.

S106 Heads of Terms

- 8.101. 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.
- 8.102. 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:

- A) Necessary to make the development acceptable in planning terms;
- B) Directly related to the development; and
- C) Fairly and reasonably related in scale and kind to the development.

8.103. The contributions sought are detailed below:

- Health contribution - £165,702.24
- Library contribution - £6,794.48
- Waste contribution - £5,370.75
- Early Years Education contribution - £351,058.50
- Secondary Education contribution - £815,310.00
- SEND Education contribution - £127,008.97
- 40% Affordable Housing provision – 90 homes comprising 68 for social or affordable rent (with local connection criteria) and 22 for intermediate tenure
- 90 dwellings should be for affordable housing; 68 for social or affordable rent and 22 for intermediate tenure
- Travel Pack provision of £52.85 per dwelling - £11,891.25
- Bus Pass provision of £360 per dwelling - £81,000
- Travel Plan Monitoring Fee - £6000
- Highway contribution towards the Coalville Transport Strategy to enable works at the A50/Field Head junction - £62,754
- Highway contribution for the introduction of a 40mph speed limit- £8,985
- Off site outdoor sports contribution - £78,192
- Off site outdoor sports maintenance contribution - £37,152
- Off site natural green space contribution - £36,810
- Off site natural green space maintenance contribution - £63,900
- On site equipped children's play space contribution - £147,363.30
- On site equipped children's play space maintenance contribution - £142,236
- On site informal play space maintenance contribution - £40,824
- S106 monitoring fees

The total S106 financial contribution resulting from the development of the maximum 225 dwellings is £2,188,352.49

8.104. All the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. The applicant has expressed their willingness to enter into such a legal agreement and as such the application is considered to comply with the requirements of Policy DM3 of the SADMP and Policy 19 of the Core Strategy.

Conclusions and Planning Balance

8.105. 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.

8.106. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower

housing requirement than is now required. It is necessary therefore to consider that 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.

- 8.107. The site lies in a relatively accessible location close to Leicester and close to the motorway network with new bus stops being provided close to the site entrance on Desford Lane. Following significant highway improvements to the scheme the Country Highway Authority no longer objects to the proposal.
- 8.108. The provision of up to 225 dwellings, 40% of which are to be affordable units, is considered to be a benefit of the proposal to which significant weight in favour of the scheme is attached.
- 8.109. It is considered that the proposal is offered no support by Policy DM4 of the SADMP. As such the application does not accord with development plan policy and is unacceptable in principle. These policies are considered to be broadly consistent with the overall aims of the NPPF and that significant weight should be attached to the fact that the proposal is contrary to the development plan and would undermine the plan led approach endorsed by the Framework.
- 8.110. The proposed development is not considered to have a significant harmful effect on the character and appearance of the countryside . In this regard it would be broadly acceptable and consistent with the requirements of Policy DM4 and Policy DM10 of the SADMP. The development would also be broadly consistent with the environmental protection aims of the NPPF.
- 8.111. The effects of this proposed development in relation to access are not considered to pose an unacceptable impact on highway safety, in accordance with the requirements of Policy DM17 of the SADMP.
- 8.112. The proposal would cause harm to the Grade II* listed building the Church of St Philip and St James and the Ratby Conservation Area. This harm is considered to be at the very lowermost end of this spectrum of harm. Paragraph 202 of the NPPF requires that where a development will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
- 8.113. The proposal can demonstrate a minor heritage benefit increase in the amount of boundary hedgerow, thicket and tree planting along the realigned section of Desford Lane which would reinforce a key rural characteristic and positive contributor to the setting of the affected heritage assets.
- 8.114. The delivery of market and affordable housing is a significant benefit of the scheme to which significant weight should be given. Other benefits of the scheme include an overprovision of public open space beyond what is required to mitigate the scheme, the likely increase in biodiversity on the site and the economic and social benefits through the construction of dwellings and from subsequent activities of future residents in the local area. These benefits are each considered to attract moderate weight. It is considered that the benefits of the scheme in this instance outweigh the less than substantial harm caused to the setting of the Grade II Church of St Philip and St James and to the setting of the Ratby Conservation Area.

8.115. As the tilted balance applies, paragraph 11(d) of the NPPF requires that 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. Taking into account the housing land supply position and the need for affordable homes within the borough, it is considered that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. Therefore, planning permission should be granted in this instance.

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 **That the application be Approved** subject to the conditions set out below and subject to the entering into of a S106 Agreement to secure the required financial contributions and other measures set out above at paragraph 1.2 that include affordable housing, junction improvements, open space, maintenance and monitoring costs.

10.2 Conditions

1. No development shall commence until details of the layout, scale, appearance, landscaping and access other than vehicular access (hereafter called the reserved matters) have been submitted in writing to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

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

2. Application for approval of reserved matters shall be made within three years of 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.

3. The development hereby permitted shall not exceed 225 dwellings in total and shall be carried out in accordance with the submitted application details, as follows:

- Site Location Plan – CSA/5249/108 Rev B
- Proposed Access Strategy – 1726/16 Rev E
- Proposed Access Arrangements – 1726/15 Rev H
- Proposed Toucan Crossing – 1726/19 Rev C

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

4. The layout submitted at reserved matters shall be consistent with the green infrastructure indicated on the submitted Development Framework Plan CSA/5249/107 Rev F.

Reason: To minimise impacts on designated heritage assets, provide a soft edge to the development, minimise impact of the development on the character of the surrounding area and to secure a net gain in biodiversity in accordance with Policies DM6, DM10 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 in writing to and approved by the Local Planning Authority in writing for the first phase of archaeological works. Further WSI/s would be needed for Mitigation stage/s. For land that is included within the WSIs, 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 as set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with the requirements of Policies

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

6. The existing hedges along the boundaries of the site shall be retained at a minimum height of not less than two metres and any trees or plants which die, are removed or become seriously damaged or diseased within 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and the same species, unless the Local Planning Authority gives written consent to any variation.

Reason: To provide an effective and attractive screen for the development in the interests of visual amenity and to accord with policies DM6 and DM10 of the Site Allocations and Development Management Policies DPD.

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

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

8. Any reserved matters application shall be accompanied by a Building for Healthy Life Assessment of the proposal.

Reason: To ensure the development is appropriate to the local area and meets amenity standards in accordance with policy DM10 of the Site Allocations and Development Management Policies DPD and the Good Design Guide SPD.

9. A Landscape and Ecological Management Plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens, shall be submitted in writing to and approved in writing by the Local Planning Authority prior to the occupation of the development. The Plan shall be carried out as per the approved details.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. No external lighting of the site shall be installed until details have been submitted in writing 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) and demonstrate that the lighting will not cause harm to protected species or their habitats (bats). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM6, DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. 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).

12. 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).

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

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

14. Upon completion of any remediation works a Verification report shall be submitted in writing to and approved in writing by the Local Planning Authority. The Verification Report shall be written by suitably qualified persons and shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7

of the Site Allocations and Development Management Policies Development Plan Document (2016).

15. Prior to commencement of development a Construction Environmental Management Plan shall be submitted in writing to and agreed in writing by the Local Planning Authority. 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 - 18:30

Saturday 09:00 - 14:00

No working on Sundays and Bank Holidays

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).

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

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

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

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

18. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted in writing to and approved in writing by the Local Planning Authority.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

19. 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 in writing 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 unsuitable roads and lead to on-street parking problems in the area in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

20. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Ashley Helme drawing number 1726/15 Rev G 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 DPD and the NPPF.

21. No part of the development shall be occupied until such time as the offsite highway works shown on Ashley Helme drawing number 1726/16 Rev E including the shared use footway/ cycleway connecting to existing footway provisions on Desford Lane, bus stops, bus lay-bys, gateway feature and pedestrian refuge/ traffic island have been implemented in full.

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

22. Prior to commencement of the development hereby permitted, a scheme detailing a pedestrian crossing point to the north of the site access on Desford Lane, which has been informed by a full PV2 assessment shall be submitted in writing to and agreed in writing by the Local Planning Authority. Thereafter, the approved scheme shall be implemented in full prior to occupation of any dwelling.

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

23. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 120 metres to the right of the site access and 2.4 x 118m to the left of the site access have been provided. 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 DPD and the National Planning Policy Framework (2021).

24. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays for existing accesses 1, 2 and 3 as detailed on Jackson drawing number 2112 Rev D have been provided. 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 / improved visibility at the existing accesses following realignment of Desford Lane, in the interests of general highway safety, and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2021).

25. No part of the development hereby permitted shall be first occupied until an amended full Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted in writing to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2021).

26. 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 vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 10 metres of the highway boundary, nor shall any be erected within a distance of 10 metres of the highway boundary unless hung to open away from the highway.

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, and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

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

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

28. Prior to commencement of development details of how a Biodiversity Net Gain shall be achieved and maintained on the site shall be submitted in writing to and agreed in writing by the Local Planning Authority. The site shall be maintained and managed in accordance with the approved details thereafter.

Reason: To ensure that the development provide biodiversity enhancement in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2021).

29. Prior to the occupation of each dwelling/unit on site full fibre broadband connection shall be available and ready for use in relation to each such dwelling/unit.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the National Planning Policy Framework (2021).

30. Any reserved matters application dealing with layout or landscaping shall be accompanied by a report setting out how the recommendations of the submitted CSA Ecological Impact Assessment have been or are to be implemented.

Reason: To ensure that the development provide biodiversity enhancement in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2021).

31. Any reserved matters application dealing with layout shall be accompanied by a noise investigation and mitigation strategy detailing how the occupants of the proposed dwellings shall be protected from noise from the adjacent Stonecroft works.

Reason: To ensure that the occupiers of the proposed development are adequately protected from the nearby noise source in accordance with the requirements of Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2021).

Planning Committee 22 August 2023
Report of the Head of Planning (Development Management)

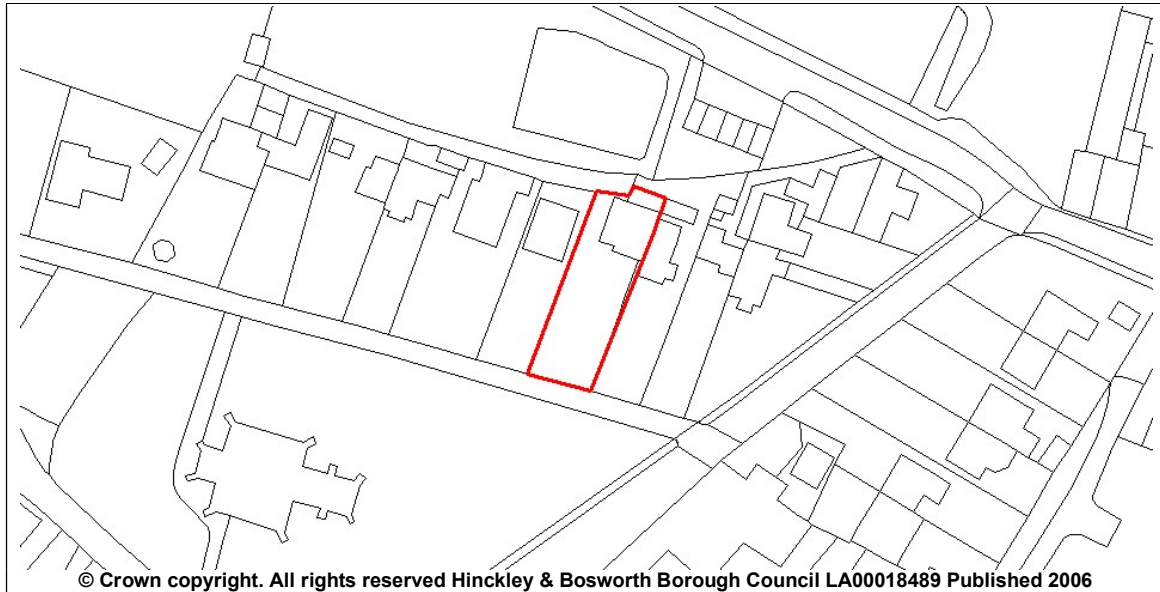
Planning Ref: 23/00349/HOU
Applicant: Mr. Nick Sharpe
Ward: Cadeby Carlton Market Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 63 Church Walk Shackerstone Leicestershire

Proposal: Tandem double garage



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

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

2. Planning application description

2.1. This householder application seeks planning permission for a detached tandem double garage to be used for purposes ancillary to the residential occupation of a dwelling, 63 Church Walk, Shackerstone.

2.2. The proposed garage would be located to the side of the dwelling. The amended scheme would have a rectangular footprint measuring 3.6 metres in width and 12 metres in depth extending from just inside the rear boundary to 4 metres forward of the existing dwelling's front elevation and just inside the side boundary of the site. It would have a gable-fronted design with a steep 50 degree dual pitched roof form with an eaves height of 2.55 metres and a ridge height of 5 metres. The amended scheme proposes that the garage would be constructed with facing bricks, plain clay roof tiles and painted barge boards to match those of the existing dwelling. In addition, the east side elevation facing towards the side elevation of the dwelling would also have a large, glazed section with oak structural mullions and either bi-fold or sliding doors. The main garage access doors would be of oak construction in

a ledge and brace style with exposed steel feature hinges and be power operated either as an up and over door or each leaf opening outwards.

- 2.3. The amended plans have been submitted to seek to address issues related to its originally submitted scale, design and appearance raised during the course of the application. Re-consultation has been undertaken.

3. Description of the site and surrounding area

- 3.1. The application dwelling is located within the settlement boundary of the rural hamlet of Shackerstone and within the Shackerstone Conservation Area. The application dwelling is a semi-detached period cottage with a steep pitched gable sided main roof and accommodation over two floors, the upper floor being within the roof space. It features tall brick chimney stacks and dormer windows with dual pitched gable fronted roof form. It is constructed with red rustic facing bricks, grey plain clay roof tiles, dark grey painted headers and canted cills and green windows and doors. It is identified as an important historic building within the Shackerstone Conservation Area Appraisal (SCAA) (2009). It is located at the back of its plot with a large amenity area to the fore with a number of relatively recently constructed detached ancillary amenity buildings. There is a loose stone surfaced driveway of single width and approximately 20 metres in length providing off-street parking for three cars plus an additional space at the front of the site. The site is enclosed by solid timber panel fencing with arched decorative trellis above, other than the rear boundary which has a 2 metres high solid close boarded timber fence and a 3 metres high hedgerow forming the boundary with the public recreation area to the north of the site.
- 3.2. The application dwelling is one of a cluster of former Gopsall Estate cottages located along Church Walk. The cottages were constructed in the Arts and Crafts style with similarly steeply pitched roofs, projecting gables, tall chimney stacks and fine architectural detailing. They are all set towards the rear of their respective plots with amenity areas between their front elevation and Church Walk.

4. Relevant planning history

87/01146/4

- Alterations and extensions to residential cottage
- Permitted
- 29.01.1988

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. As a result of public consultations, responses have been received from three neighbouring properties objecting to the amended proposals on the following grounds:
- Structure would be out of keeping with surrounding properties in terms of size, scale, footprint, architectural integrity/design, materials and planned use
 - Structure would be twice the depth of the original cottage, would project forward of it and dominate the frontage of the property and due to size and design would impact negatively on the street scene and conservation area
 - Structure would add to the number of existing structures within the front garden (not shown on submitted plans) which are all visible from the street and will fill the remaining outdoor space/useable garden

- Side window of adjacent dwelling looks towards the plot and would lose views and light
 - Potential for alternative use in the future.
- 5.3. The application has been called in for determination by the Committee by Cllr Cook in support of the concerns of the Parish Council and neighbours and due to conflict with policies DM10, DM11 and DM12.

6. Consultation

- 6.1. Shackerstone Parish Council note the amended plans which include a reduction in its length by 2 metres to 12 metres, a change to the roof pitch which is more in keeping with the vernacular and a reduction in the number of windows on the eastern elevation. However, objections to the proposal remain on the following grounds:
- The footprint remains excessive compared to that of the dwelling/plot with the front garden already having a number of cabins/summerhouses in the heart of the conservation area
 - The garage would extend beyond the dwelling frontage
 - Bifold doors have now replaced some of the windows raising questions about the future use of the building.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 13: Rural Hamlets
- 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 DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- Planning (Listed Buildings and Conservation Areas) Act 1990
 - National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- Shackerstone Conservation Area (SCA) Appraisal and Map (2009)
 - Good Design Guide (2020)
 - National Design Guide (2019)
 - Local Highway Authority Design Guide

8. Appraisal

- 8.1. Extensions and alterations to existing domestic properties 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 dwelling, Shackerstone Conservation Area and the setting of nearby listed buildings
 - Impact upon neighbouring residential amenity

- Impact upon parking provision

Design and impact upon the character of the dwelling, Shackerstone Conservation Area and the setting of nearby listed buildings

- 8.2 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.
- 8.3 Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.4 Policy 13 of the adopted Core Strategy requires new development to respect the character and appearance of the Shackerstone Conservation Area by incorporating locally distinctive features of the conservation area into the development.
- 8.5 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment including conservation areas and national and locally important heritage assets and should ensure the significance of a conservation area is preserved and enhanced. 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. The Council's adopted Good Design Guide provides further advice in respect of the siting and design of house extensions and suggests that: *'Garages and car ports should generally be set back from the existing dwelling so as not to dominate the street scene.'*
- 8.6 Objections have been received on the grounds that the proposal would be out of keeping with surrounding properties in terms of its size, scale, footprint, architectural integrity/design, materials and planned/potential alternative future use and that due to its size, design and forward projection it would dominate the frontage of the property, infill remaining garden space adding to the existing cabins/summerhouses that occupy much of the site frontage and would have a negative impact on the street scene and conservation area.
- 8.7 The application dwelling is one of a cluster of former Gopsall Estate cottages located along Church Walk. The cottages were constructed in the latter half of the 19th century in the Arts and Crafts style and have steeply pitched roofs, projecting gables, tall chimney stacks and fine architectural detailing. Due to the historical and architectural interest of the cottage it contributes positively to the character and appearance and thus significance of the conservation area, and it is identified as an important historic building within the Shackerstone Conservation Area Appraisal (SCAA) (2009). The layout of the cottages is also of interest, with each cottage being set at the back of their respective plot and having a considerably sized amenity area between their front elevations and Church Walk. The SCAA identifies the layout of development along Church Walk as a component of interest and most of the front garden to No. 63 forms part of a key space within the conservation area.
- 8.8 The proposed tandem double garage would be located to the side of the dwelling and would have a rectangular footprint measuring 3.6 metres in width and 12 metres in depth. The amended design seeks to reflect the Arts and Crafts style and character of the host cottage and other Church Walk cottages, with a steep 50

degree dual pitched gable fronted roof form and architectural detailing including painted barge boards, diamond windows in the gable apexes and near side elevation, and garage doors constructed of oak with a ledge and brace style. The amended scheme proposes the use of red facing bricks and grey plain clay roof tiles to match those of the existing cottage which would result in a unified appearance. The proposed oak framed glazing to the near side elevation facing the cottage would be a more contemporary rather than traditional feature. However, notwithstanding this, by virtue of the siting of the garage to the side of the cottage and positioned towards the rear of the plot, this feature would be largely concealed by its close proximity to the side elevation of the cottage and by other structures within the site frontage and therefore it is considered that it would not result in any adverse visual impacts upon the street scene or conservation area.

- 8.9 By virtue of its proposed 12 metres length, the proposal would extend 4 metres forward of the front building line of the host dwelling. Notwithstanding this and the extent of its footprint, due to its amended traditional design and appearance it would relate well to the host cottage and despite being forward of it would not lead to any perceptible reduction in the extent of the key space in front of the cottage. When viewed from Church Walk the garage would be clearly set back from the more dominant cream rendered gable of the adjacent modern infill dormer bungalow (No. 62A), and due to its single storey scale with an eaves height of 2.55 metres and a ridge height of 5 metres, it would be clearly subordinate in height to both dwellings either side, with only the front gable being visible directly from Church Walk due to other existing structures within the site frontage and planting. As a result, notwithstanding the objections received, it is considered that the proposal would not be unduly dominant or visually prominent in the wider area.
- 8.10 Due to the projection of the garage beyond the front building line of the host cottage, its roofscape would be visible looking westwards from Church Road across several front gardens of the cottages along Church Walk. However, by virtue of its steep pitch roof form and the proposed use of matching grey plain clay roof tiles, it would have a traditional character and it is considered that it would sit comfortably within that view, which would include the backdrop of the modern infill dormer bungalow (No. 62A), which is identified as a 'weak area/building' within the SCAA.
- 8.11 A view of the top of the rear gable of the garage would be visible above the mature 3 metres high hedgerow along the rear boundary of the plot from the recreational area on Station Road. However, by virtue of the traditional form and detailing of the rear elevation of the garage and the proposed use of matching external materials in its construction, it is considered that the proposal would not result in any adverse visual impacts upon any views of the Gopsall Estate cottages when viewed from the recreational ground or other key spaces in the conservation area located to the north of the application site.
- 8.12 Objections received refer to there being a number of other structures (including cabins, summer house, hot tub etc. within the site frontage that cover much of the previously open amenity space. The proposal would result in an additional structure, however, the existing structures include the provision of covered amenity areas and satisfactory amenity space to serve the dwelling would therefore be retained within the 20 metres deep by 7 metres wide (140 square metres) front amenity area.
- 8.13 Objections received refer to the potential for alternative use of the structure in the future (other than garaging) due to its design that includes bi-fold or sliding doors. By virtue of the site providing alternative adequate off-street parking, subject to the structure being used only for purposes ancillary to the residential occupation of the

cottage and for no other purpose, such use would not be unacceptable and a planning condition could be used to secure this restriction.

- 8.14 Notwithstanding the objections received, by virtue of the appropriate siting, scale, form, amended design and appearance, and the proposed use of matching and sympathetic natural materials in its construction, it is considered that the proposed tandem double garage would respect and complement the scale, period character and appearance of the application dwelling, would have a neutral impact on the character and appearance of the Shackerstone Conservation area and would therefore preserve its significance. As a result, the proposal is considered to be in accordance with Policy 13 of the adopted Core Strategy, Policies DM10, DM11 and DM12 of the adopted SADMP, section 16 of the NPPF and the statutory duty of Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.15 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.
- 8.16 An objection has been received on the grounds that the proposal would result in loss of light to and views from a window in the neighbouring dwelling, although this is not from the immediate neighbouring owner.
- 8.17 No. 62A Church Walk is a gable fronted dormer bungalow that lies to the west of the proposal, approximately 1 metre in from the side boundary. It currently benefits from three windows in its east side elevation facing the application site, two secondary habitable room windows at ground floor and a dormer window above serving a landing area, the principle habitable room windows being to the front and rear elevations. Notwithstanding the siting of the proposal just inside the side boundary and its depth which would extend across these ground floor windows, they are secondary in nature and therefore it is considered that, notwithstanding its proximity, the proposal would not result in any significant or unacceptable adverse overbearing or overshadowing impacts on the residential amenity of the neighbouring dwelling. The proposal would also extend approximately 4.5 metres beyond the rear elevation of No. 62A to the rear boundary and adjacent to its rear courtyard. The nearest ground floor opening in the rear elevation of No. 62A facing the courtyard is a kitchen door and therefore the proposal would not result in any significant adverse impacts on any significant rear elevation windows.
- 8.18 Notwithstanding the objection received, it is considered that the proposal would not result in any significant adverse impacts on the privacy or residential amenity of any neighbouring properties and that it would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon parking provision

- 8.19 Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.20 The proposed scheme would result in the provision of six off-street parking spaces within the proposed tandem double garage, the 20 metres long loose stone surfaced driveway and additional space at the site frontage. This level of provision would be more than adequate to serve this modest dwelling and be in accordance with Policy DM18 of the adopted SADMP and local highway authority design guidance standards.

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 the construction of a detached garage for uses ancillary to the residential occupation of an existing dwelling within the settlement boundary of Shackerstone 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 objections received, by virtue of the siting, scale, amended form, design and appearance, and the proposed use of matching and sympathetic natural materials in its construction, it is considered that the proposed tandem double garage would respect and complement the scale, period character and appearance of the application dwelling, would have a neutral impact on the character and appearance of the Shackerstone Conservation area and would therefore preserve its significance. Notwithstanding the objection received, it is considered that the proposal would not result in any significant adverse impacts on the privacy or residential amenity of any neighbouring properties. Satisfactory off-street parking for up to six cars and adequate amenity space would be retained within the site to serve the application dwelling. The proposal is considered to be in accordance with Policy 13 of the adopted Core Strategy, Policies DM1, DM10, DM11, DM12 and DM18 of the adopted SADMP, section 16 of the NPPF (2021) and the statutory duty of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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 Head of Planning be given powers to determine the final detail of planning conditions.

11.3 **Conditions and Reasons**

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

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

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan and Proposed Block Plan Drawing No. 2022/134/01 Rev A, Proposed South and East Elevations Drawing No. 2022/134/02 Rev A, Proposed North and West Elevations Drawing No. 2022/134/03 Rev A and Proposed Ground Floor Plan and Roof Plan Drawing No. 2022/134/04 Rev A received by the local planning authority on 4 July 2023.

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 detached tandem garage hereby permitted shall be in accordance with the external materials details submitted on the approved Proposed South and East Elevations Drawing No. 2022/134/02 Rev A, Proposed North and West Elevations Drawing No. 2022/134/03 Rev A and Proposed Ground Floor Plan and Roof Plan Drawing No. 2022/134/04 Rev A received by the local planning authority on 4 July 2023 and shall match the corresponding materials of the existing dwelling.

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

4. The proposed detached tandem double garage hereby permitted shall only be used for purposes that are ancillary to the residential occupation of the host dwelling, 63 Church Walk, Shackerstone and not for any other purposes whatsoever.

Reason: To ensure that the use of the building remains compatible with the residential use of the site and to protect the residential amenity of neighbouring properties 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 or call 01455 238141.

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Planning Committee 22nd August 2023
Report of the Head of Planning (Development Management)

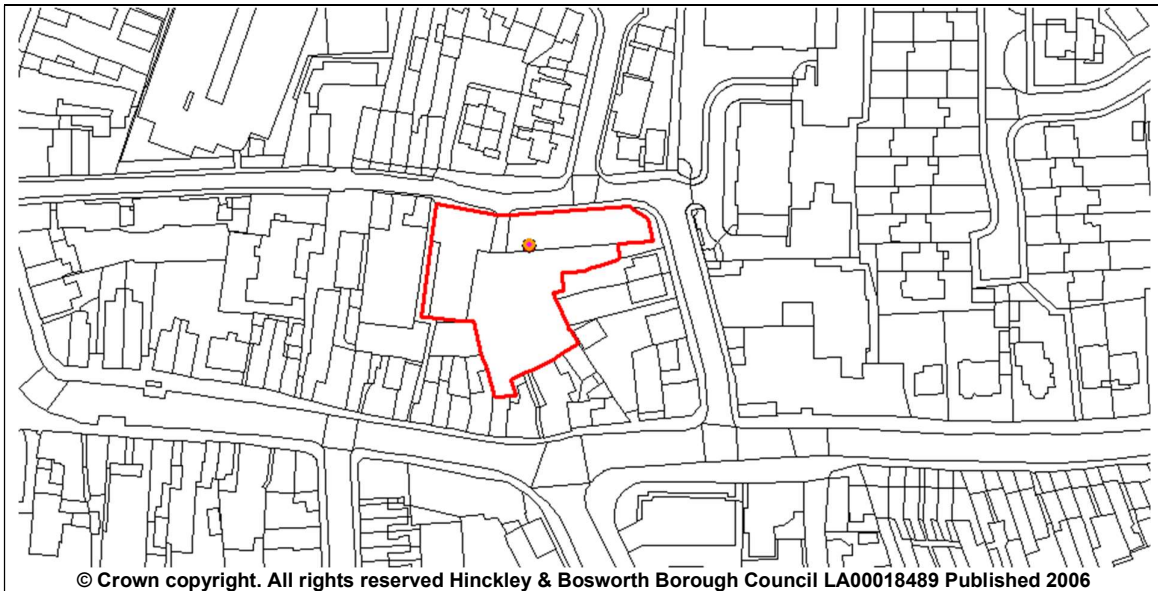


Hinckley & Bosworth
Borough Council

Planning Ref: 22/00695/HYB
Applicant: Mr R Jeffcoate, Onyx Rose
Ward: Hinckley Castle

Site: Factory Units, 23 Wood Street, Hinckley, Leicestershire, LE10 1JQ

Proposal: Hybrid planning application comprising: Outline application (access, appearance and scale to be considered) for the demolition of an existing factory building and erection of a residential building comprising up to 12 residential units; a Full application comprising the change of use of an existing factory building to residential including the addition of an extra storey and comprising 14 residential units



1. Recommendations

- 1.1. That the application be approved subject to:
 - Conditions outlined at the end of this report
 - S106 Agreement to secure a viability review mechanism
- 1.2. That the Head of Planning be given powers to determine the final detail of the conditions.

2. Planning Application Description

- 2.1. The application is a hybrid planning application. The proposal seeks outline permission for the demolition of an existing factory building and erection of a residential building comprising up to 12 residential units, with access, appearance and scale to be considered and landscaping and layout reserved. Alongside full planning permission for the change of use of the other existing factory building to residential, including the addition of an extra storey, comprising 14 residential units.
- 2.2. The outline element relates to the demolition of the existing factory building along the western boundary as well as the extension over the existing access point. The

building is proposed to be replaced with a building of a similar scale and architectural style.

- 2.3. The full element of the proposal relates to the change of use of the existing more easterly building. The building would be extended to the rear with a new timber clad, two storey stairway extension alongside a roof extension of approximately 2.3m in height which would be clad with pale grey cladding. New windows and doors are proposed to be inserted into the existing building with internal alterations occurring to form the apartments.
- 2.4. The existing access point is proposed to be widened between the two buildings and would lead to a shared parking area with 29 spaces. The proposal also includes hard and soft landscaping, including new soft landscaping to the parking area and periphery of the site such as the north eastern corner of the site.
- 2.5. The application is accompanied by the following reports and documents:
 - Design and Access Statement
 - Viability Assessment
 - Flood Risk Assessment
 - Ground Investigations
 - Historic Building Survey

3. Description of the Site and Surrounding Area

- 3.1 The application site relates to an existing factory unit located to the south of Wood Street and east of Cross Keys Yard with a site area of approximately 0.18ha. Whilst the majority of the area is predominantly residential in nature the application site is allocated in the Site Allocation and Development Management Plan (SADMP) as an Employment Site (HIN147). However, much of the site has been vacant for a considerable length of time.
- 3.2 The site forms the far eastern corner of the Hinckley Town Centre Conservation Area and is identified within the Hinckley Town Centre Conservation Area Appraisal (2013) as unlisted buildings of local historic or architectural importance. The uniformity of building lines, building form, roofscape, fenestration and construction materials provide a consistency of character typical of a former hosiery factory complex located within Hinckley.
- 3.3 The existing buildings dominate the site frontage and immediate street scene with the buildings contributing positively to the character and appearance and thus significance of the conservation area. To the rear of the buildings is a large parking/servicing area. One lane (a "jitty"), known as Cross Keys Yard runs along the western boundary of the site and has a dog-leg adjacent to the original factory. The jitty provides an important historic link between the factories on Wood Street and the upper section of Castle Street.
- 3.4 The adjacent site to the west of the site boundary where a factory has previously been demolished was included in the previous application but has subsequently been sold and redeveloped independently of this application.

4. Relevant planning history

21/00692/OUT

- Redevelopment of existing site to residential

- Not validated
- The applicant appealed against the non-determination of the application.
- Appeal Dismissed
- 26.01.2022
- The appeal was dismissed with the Inspector concluding that the Council was correct in not validating the application. It should be noted the Council's Statement of Case concluded it would have accepted the application had it been a valid planning application.

19/00464/OUT

- Residential development of existing industrial site (Outline - access, layout and scale only)
- Refused
- 04.03.2021
- Appeal Dismissed
- 04.05.2022

07/00443/FUL

- Demolition of redundant industrial/commercial buildings and erection of twelve apartments, conversion of existing commercial/industrial building to ten apartments and ancillary works
- Approved
- 11.07.2007

06/01423/FUL

- Demolition of industrial building and erection of apartments, conversion of existing industrial building to form apartments
- Withdrawn
- 19.03.2007

5. Publicity

- 5.1. The application has been publicised by sending out letters to the occupiers of 60 neighbouring properties. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. No comments have been received

6. Consultation

- 6.1 **LCC Highway Authority** – The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to the conditions and/or planning obligations outlined in this report.

Site Access

The site access arrangements are detailed on Hayward Architects drawing number 05, Rev F. Access to the site would be via Wood Street, an unclassified road subject to a 30mph speed limit. Wood Street is a one way street with traffic travelling from west to east only. The Applicant is proposing to widen the existing access to the car

park of the building to 4.8m. In addition, the new building proposed to the west of the access would result in the footway fronting the site being widened and a slight improvement to visibility in comparison to the existing access. Overall, the LHA has no objections to the site access arrangements and would welcome the widening of the footway fronting the site.

Highway Safety

Based on available records to the LHA, there have been no recorded Personal Injury Collisions along Wood Street within the last five years.

Internal Layout

Hayward Architects drawing number 05, Rev F details 29 car parking spaces would be provided within the site. Based on the submitted Design & Access Statement, it is understood this would be communal parking rather than allocated spaces. This equates to one car parking space per unit plus three visitor spaces.

Overall, this is a comparable level of parking to the 2019 proposals and given the sustainable town centre location of the site as well as a package of Traffic Regulation Orders in the surrounding area, such as double and single yellow lines as well as limited waiting bays which should prevent inappropriate parking the area, the LHA consider the parking provision to be acceptable.

Public Rights of Way

Public Footpath V8 runs adjacent to the proposed development. Noting the proposed work, the LHA have no objection to the proposed development as it is considered the use and enjoyment of the footpath is unlikely to be significantly affected.

- 6.2 **LCC Ecology** – No objections subject to conditions
- 6.3 **Lead Local Flood Authority** – Leicestershire County Council as Lead Local Flood Authority (LLFA) notes that the 0.18ha brownfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to medium risk of surface water flooding. The proposals seek to discharge at 5 l/s via pervious paving and attenuation tanks to an assumed existing lateral connection to the Severn Trent Water (STW) combined sewer on Wood Street. Subsequent to the previous LLFA response the applicant has procured a Developer Enquiry response from Severn Trent Water demonstrating that a connection to their asset is viable. Therefore there are no objections subject to conditions.
- 6.4 **HBBC Conservation** – Overall, the location of the industrial buildings and their extent along Wood Street, with a uniformity of building lines, building form, roofscape, fenestration and construction materials provide a consistency of character typical of a former hosiery factory complex located within Hinckley, with each of the standing buildings contributing positively to the character and appearance and thus significance of the conservation area.

The buildings have been identified as unlisted buildings of local historic or architectural importance (Factories on Wood Street) in the adopted Hinckley Town Centre Conservation Area Appraisal (HTCCAA) (2013). For similar reasons these buildings should also be considered to be local heritage assets in their own right (non-designated heritage assets in terms of the National Planning Policy Framework), due to their architectural and illustrative historic interest, rarity as a hosiery complex once common in the town, landmark value and unity as a group of buildings. This assertion is made after assessing the buildings against the Borough Council's adopted selection criteria (2017) for identifying local heritage assets.

One lane (a “jitty”), known as Cross Keys Yard runs along the western boundary of the site and has a dog-leg adjacent to the original factory. The jitty provides an important historic link between the factories on Wood Street and the upper section of Castle Street and is a physical remnant of the historical development of Hinckley when industrial and domestic buildings were sited around them. The jitty is narrow and in part is laid with traditional blue clay pavers, with these characteristics being typical of the wider network of jitties and yards running off main streets located throughout the town centre. Consequently the jitty contributes positively to the character and appearance and thus significance of the conservation area, and is identified as being a feature of special interest within the HTCCAA.

The proposal seeks to demolish the whole of the original 1903 factory. Given the largely positive contribution this building makes to the conservation area its loss is considered to have an adverse impact upon the significance of the conservation area and the asset itself as a local heritage asset.

The plans allow for a detailed assessment of most planning matters, other than layout of block A and landscaping for the wider site being indicative. In terms of access the position of the existing vehicular access is maintained with parking largely being retained within a rear courtyard, reflective of the current site circumstances. Cross Key Yard jitty is retained as a pedestrian access from Castle Street and Wood Street and will be used for access to some of block A, adding some activity back to this historic route.

The concept site layout plan confirms that block A reflects the siting of previous historical industrial and domestic built form, and alongside the conversion of block B this ensures the development will maintain a uniformity of building line and maintain the strong presence of buildings within the street scene with them being located at the back edge of the pavement.

The prevalent building scale on the site is of buildings of two storeys in height, although this scale does feel greater than the surrounding domestic development of two storeys due to the taller floors of these functional industrial buildings. The redevelopment does increase the scale and mass of development, particular at the site frontage on Wood Street. However, block A is to be rebuilt at a three storey domestic rather than industrial scale so the increase in the height of the building is minimal, and due to the set back and flat roof form of the additional floor for block B this reduces its visual impact and is not considered to detract from the form of the original 1930s building or have an overbearing impact upon the wider area. The proposed stairwell to the rear elevation block B is subservient in scale to the main building.

Block A is proposed to be rebuilt in matching materials with the architectural style, proportion & details of the original building replicated. A requested additional detail is confirming that the red/orange brick for the construction of block A be laid in an English bond as per the original building; this could be secured via a planning condition.

The materials for the facing walls and flat roof penthouse storey on block B are to be cladding with a pale grey colour and the rear stairwell extension to the rear is to be clad in timber with clear glazing curtain walling to the sides. These would be contemporary styled finishes that are considered to complement the retained brick finish of the original factory. The windows proposed to serve the penthouse storey and generally positioned to ensure a rhythm and consistency of appearance with the

windows on the ground and first floors below. The existing steel windows are in a relatively poor conditions so are proposed to be replaced with new windows of a style and proportions to match the existing, respecting the horizontal emphasis of industrial style steel windows from the 1930s architectural period. Any replacement windows upon both blocks would be expected to be of a traditional or similar material, such as steel or aluminium.

For the above reasons the access, layout (in terms of the siting of the blocks and retention of the Cross Keys Yard jitty) and scale of the proposed redevelopment is considered to have no adverse impact upon affected heritage assets. The appearance of the proposed redevelopment could be acceptable subject to the submission of further details which can be secured via a planning condition. A justification has been submitted with the proposal demonstrating the reasons for the continued partial vacancy of the original factory and the practical difficulties of its conversion. The continued state of disrepair with the boarding up of the windows is also considered to have a detrimental impact on the appearance of the area so bringing the building back into use will provide an enhancement to the character of the area; such a measure is identified within the Hinckley Town Centre Conservation Area Management Plan. The total loss of the original factory remains harmful; however, its loss is mitigated to a certain degree by the recording of its significance as part of the Historic Building Survey and the siting, scale and appearance (subject to the submission of further details) of the proposed block A very closely replicating its existing characteristics.

Summary and conclusion

The loss of the original factory has an adverse impact upon the character and appearance of the conservation area causing harm to this designated heritage asset. The level of harm upon the conservation area is considered to be less than substantial. As a justification has been provided for its loss and its significance has been recorded, in addition to the limited impact on the conservation area as a whole, the level of harm is considered to be towards the lower end of the spectrum of less than substantial harm.

The access, layout, scale and appearance (subject to conditions) of the proposed redevelopment across the site is considered acceptable and particular aspects of the proposal provide an enhancement to the character of the area. These are heritage benefits, which accompanied with any additional non-heritage public benefits should be weighed against the harm caused as per paragraph 202 of the NPPF and Policy DM11 of the SADMP. The ultimate conclusion of this balancing exercise is one for the decision-taker, but if it comes out in favour of the proposal it will comply with 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.

Although a reserved matter, the conceptual site layout identifies opportunities for appropriate landscaping including within the site interior, on the corner of Wood Street and Priory Walk and along and within the vicinity of Cross Keys Yard which could realise further opportunities for enhancement identified within the Conservation Area Management Plan. For any application seeking approval of this reserved matter these characteristics must be retained to ensure the desirability of new development making a positive contribution to local character and distinctiveness is achieved.

The redevelopment proposal provides a number of benefits towards achieving the objectives of sustainable development (see paragraph 8 of the NPPF), including some short term employment during the construction of the redevelopment, a number

of dwellings to meet the borough's housing supply and the use of local services by future occupants. Previous efforts have been made towards the retention of the original 1903 factory but its conversion remains unviable, with its loss mitigated to a degree by the programme of recording its significance and block A, its proposed replacement, closely reflecting its form, siting, scale and appearance (the latter subject to the submission of further details). The conversion of the 1930s extension is considered to retain the significance of this part of the factory complex. Therefore, taking the above into account and the balanced approach required by paragraph 203 of the NPPF in my opinion the proposal is not considered to have an unacceptable impact upon the local heritage asset identified as Factories on Wood Street, and therefore this element of the proposal complies with policies DM11 and DM12 of the SADMP and section 16 of the NPPF. The ultimate conclusion of the balancing exercise is one for the decision-taker however.

Should the application be approved, conditions are requested.

- 6.5 **HBBC Environmental Health** – No objections subject to conditions regarding contamination and a Construction Environmental Management Plan.
- 6.6 **LCC Planning Obligations** – The following contributions totalling £15, 362.24 are required as a result of this development:
- Waste – Barwell HWRC £1, 287.78
 - Libraries- Hinckley Library £739.84
 - Secondary Education (11-16)- Hastings High School £10, 965.32
 - Post 16 Education- The Hinckley School £2, 369.30
- 6.7 **NHS England** – The GP practices closest to this development are Castle Mead Medical Centre and The Centre Surgery. The practices are experiencing capacity issues in relation to its premises and would need to increase facilities to meet the needs resulting from this development. The proposed development generates a requirement for a contribution of £4,226.88 and this should be released prior to first occupation.
- 6.8 **HBBC Affordable Housing** – Policy set out in the Core Strategy (policy 15), indicates that 20% of the dwellings in the urban areas on qualifying sites of 15 or more dwellings, should be for affordable housing, of which 75% should be for affordable rent and 25% for shared ownership. This site will deliver a total of 26 dwellings and therefore crosses the threshold where a contribution to affordable housing is required. The starting point for any contribution is on site provision.

2 properties should be provided as First Homes, 3 properties for affordable rent and 1 for shared ownership. This would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and meet the requirement for 10% of all dwellings for affordable home ownership. However given the relatively small numbers of affordable housing on this site, it is unlikely that 1 shared ownership home would be feasible, and therefore the tenure could be split between 3 First Homes and 3 affordable rent properties.

As is demonstrated by the housing register, the greatest need for rented accommodation is for 1 bedroomed flats and the preference would be for 3 x 1 bedroomed flats for rent and 3 x 2 bedroomed flats for affordable home ownership.

As this site is in the urban area, the section 106 agreement should contain a

requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection.

- 6.9 **HBBC Compliance and Monitoring** – Play and open space contributions should be secured for off site as there are no provisions on site. Queens Park and Argents Mead are the closest, Queens Park being at 80% quality.

Off site Equipped Children’s Play Space contribution- £17, 028.65
Off site Equipped Children’s Play Space maintenance contribution- £8, 218.08
Off site Casual/Informal Play Spaces contribution- £1, 939.39
Off site Casual/Informal Play Spaces maintenance contribution- £2, 358.72
Off site Outdoor Sports Provision contribution- £9. 035.52
Off site Outdoor Sports Provision maintenance contribution- £4, 293. 12
Off site Accessibility Natural Green Space contribution- £4, 253.60
Off site Accessibility Natural Green Space maintenance contribution- £7, 384.00

7. Relevant Planning Policy and Guidance

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- 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 DM3: Infrastructure and Delivery
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough’s Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM19: Existing Employment Sites

7.3 Hinckley Town Centre Area Action Plan (AAP)

- Policy 15- Transport Infrastructure Delivery and Developer Contributions

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)
- Leicestershire Highway Design Guide
- The Green Infrastructure Strategy (2020)
- Open Space and Recreation Study (2016)
- Heritage Strategy (2020)
- Housing Needs Study (2019)

- Affordable Housing SPD (2011)
- Leicestershire and Rutland Historic Environment Record
- Hinckley Town Centre Conservation Area Appraisal (HTCCAA) (2013)

8. Appraisal

- 8.1. The application is a hybrid planning application. The outline element of the application relates to the demolition of the existing factory building and its replacement with a new residential building comprising up to 12 residential units. Matters are reserved except for access, appearance and scale, therefore the layout and landscaping of this element of the development are to be reserved for later consideration. The full element of the application relates to the change of use of the other existing factory building including the addition of an extra storey to comprise 14 residential units.
- 8.2. The following represent the key issues:
- Principle of Development
 - Housing Land Supply
 - Housing Mix and Supply
 - Impact upon Highway Safety
 - Impact on the Character and Appearance of the Area
 - Impact on Heritage Assets
 - Design and Layout
 - Residential Amenity
 - Flood Risk and Drainage
 - Ecology and Biodiversity
 - Viability
 - Planning Balance

Principle of Development

- 8.3. 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. Paragraph 2 of the National Planning Policy Framework (NPPF) repeats this and states 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.
- 8.4. Paragraph 11 of the 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) and Hinckley Town Centre Area Action Plan (AAP) (2011).
- 8.5. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS) was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024 with

adoption due around January 2025. The Replacement Local Plan is therefore delayed.

- 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 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. 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”*.
- 8.8. 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”*.
- 8.9. 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.”*
- 8.10. Paragraph 120 of the NPPF states that decisions should *“...(c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land
d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure); and
e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”*
- 8.11. The Core Strategy (CS) sets out the Spatial Strategy for the Borough with Hinckley identified as the sub regional centre and the key focus for new development within the Borough. To support Hinckley’s role as a sub-regional centre, Policy 1 of the

adopted Core Strategy seeks to allocate land for the development of 1120 new residential dwellings for Hinckley, diversify the existing housing stock in the town centre, support the sympathetic reuse of existing buildings and require new development to enhance the public realm within the town centre.

- 8.12. Policy DM19 in the SADMP identifies the existing employment areas in the Borough. The application site lies within the Factory/Works south of Wood Street site (HIN147) which is a Category C site. Policy DM19 states that within Category C sites the Borough Council will take a more flexible approach for alternative uses, in accordance with the most up-to-date Employment Land and Premises Review and other Local Plan policies.
- 8.13. The site is within the Settlement Boundary within a sustainable location in terms of the proximity to facilities and services within Hinckley. Furthermore, the proposal seeks to convert an existing building to residential use whilst redeveloping previously developed/brownfield land which in accordance with the NPPF is given substantial weight. The proposal also seeks an upward extension to the converted building, an element which is also supported in principle within the NPPF (Paragraph 120(e)). The principle of the change of use of this employment site was originally accepted in 2007 and again in 2021. The site is underutilised for employment uses presently with the buildings becoming dilapidated through lack of use. The principle of development is therefore acceptable in accordance with the aforementioned policies of the Development Plan and NPPF.
- 8.14. As the 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.

Housing Mix and Supply

- 8.15. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 40 dwellings per hectare is required in Hinckley, a lower density may be required where individual site circumstances dictate and are justified.
- 8.16. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.17. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus Policy 16 of the CS is considered up to date in this regard.
- 8.18. Final number, mix of dwellings, layout and density will be determined at Reserved Matters stage for the outline element, but the plans shows that this element could provide a mixture of one and two bed apartments. The full element would provide 6 one bed apartments and 8 two bed apartments of varying size. The density of the development complies with Policy 16. The applicant has not undertaken a Building for Healthy Life Assessment (the replacement for Building for Life). A detailed assessment could be provided at Reserved Matters stage and could be required as a condition for the full element.

- 8.19. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The policy goes on to state that these figures may need to be negotiated on a site-by-site basis taking into account matters including viability. The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.20. The housing officer has requested 20% of units on the site to be affordable, with a mix of 75% of those to be affordable rent and 25% for shared ownership. Two properties should be provided as First Homes, 3 properties for affordable rent and 1 for shared ownership. This would satisfy the requirements in the NPPF that 25% of all affordable housing should be provided as First Homes and meet the requirement for 10% of all dwellings for affordable home ownership. However, given the relatively small numbers of affordable housing on this site, it is unlikely that 1 shared ownership home would be feasible, and therefore the tenure could be split between 3 First Homes and 3 affordable rent properties.
- 8.21. The greatest need for affordable rented housing in the Borough is for smaller units of accommodation to assist single people or couples, or small families, therefore the preference would be for 3 x 1 bedroomed flats for rent and 3 x 2 bedroomed flats for affordable home ownership. As this site is in the urban area, the section 106 agreement should contain a requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection.
- 8.22. A viability assessment has been submitted which considers that the scheme is not viable to secure affordable housing provision or any other necessary developer contributions. A summary of the appellants viability assessment is set out later in this report.

Impact upon Highway Safety

- 8.23. 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)).
- 8.24. Policy DM18 requires all proposals for new development to provide an appropriate level of parking provision justified by an assessment of the site location, type of housing, other modes of transport available and appropriate design. Developments within Hinckley Town Centre should demonstrate that they would not exacerbate existing problems in the vicinity with increase on-street parking.
- 8.25. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.26. Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF 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.

- 8.27. Access to the site would be via Wood Street, an unclassified road subject to a 30mph speed limit. Wood Street is a one way street with traffic travelling from west to east only. The Applicant is proposing to widen the existing access to the car park of the building to 4.8m. In addition, the new building proposed to the west of the access would result in the footway fronting the site being widened and a slight improvement to visibility in comparison to the existing access. Based on available records to the LHA, there have been no recorded Personal Injury Collisions along Wood Street within the last five years.
- 8.28. 29 car parking spaces would be provided within the site, the submitted Design & Access Statement, states this would be communal parking rather than allocated spaces. This equates to one car parking space per unit plus three visitor spaces. Overall, this is a comparable level of parking to the previous proposals and given the sustainable town centre location of the site as well as a package of Traffic Regulation Orders in the surrounding area, such as double and single yellow lines and limited waiting this should prevent inappropriate parking in the area.
- 8.29. Public Footpath V8 runs adjacent to the proposed development. Noting the proposed work, the LHA have no objection to the proposed development as it is considered the use and enjoyment of the footpath is unlikely to be significantly affected.
- 8.30. Overall, the Local Highway Authority has no objections to the site access arrangements and would welcome the widening of the footway fronting the site. Furthermore the LHA consider the parking provision to be acceptable.
- 8.31. Given the views of the Local Highway Authority, and subject to conditions, it is considered that the proposals accord with the requirements of the NPPF and Policy DM10, DM17 and DM18 of the SADMP.

Impact on the Character and Appearance of the Area and Heritage Assets

Relevant Policy/Guidance

- 8.32. 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.
- 8.33. Policy 1 of the Core Strategy requires that development proposals should respect Hinckley's industrial heritage through sympathetic reuse of existing buildings unless it can be demonstrated that this is not achievable and that new development should respect the character and appearance of the Hinckley Conservation Area.
- 8.34. 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.

- 8.35. The Council's Good Design Guide (2019) sets out the process to be followed to ensure good quality design for new residential development.
- 8.36. 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.
- 8.37. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment.
- 8.38. Paragraph 197 states that in determining planning applications, local planning authorities should take account of:
- 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.
- 8.39. Paragraphs 199-202 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.
- 8.40. 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.
- 8.41. 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 (paragraph 206).
- 8.42. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD (SADMP) seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate:
- a) An understanding of the significance of the heritage asset and its setting, and
 - b) The impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
 - c) How the benefits of the proposal will outweigh any harm caused
 - d) Any impact on archaeology in line with Policy DM13
- 8.43. Policy DM12 requires all development proposals to accord with Policy DM10. Development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration and inclusion of important features

(as identified in Conservation Area Appraisals and Management Plans). Policy DM12 also states that development proposals should make every effort to retain the significance of locally listed heritage assets.

- 8.44 General guidance and an assessment of the character and appearance of the Hinckley Town Centre are contained within the HTCCAA. Guidance and a number of potential means of enhancing the character and appearance of the site provided in the Hinckley Town Centre Conservation Area Management Plan (2013).
- 8.45 In determining applications, paragraph 194 of the NPPF and Policy DM11 of the SADMP requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 195 of the NPPF also requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. That required assessment has been undertaken in this report and by the Conservation Officer. The Historic Building Survey that has been prepared to accompany the application 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.

Assessment

- 8.46 The Historic Building Survey provides a summary of the historical background of the site. The standing buildings on the site were an addition to a pre-existing industrial site on Castle Street which dated from at least 1887. At the turn of the 20th century the site formed part of the Arthur Davenport and Sons hosiery factory complex, the Davenport family being an important local hosiery manufacturer. The pre-existing buildings on Castle Street were demolished in the latter half of the 20th century, leaving four standing buildings facing into Wood Street and Crown and Anchor Yard. Of these a further mid-20th century block towards the western end of the site was demolished as part of the permission reference 07/00443/FUL. The buildings facing into Crown and Anchor Yard have recently been redeveloped and do not form part of the application site.
- 8.47 The site currently consists of two standing buildings. The original T-shaped factory comprises the western block (proposed to be demolished in the outline element of the proposal). This was built around 1903 and is of two storeys, constructed in English bond orange brick with a Welsh slate pitched roof. The second building is the eastern block which is a late 1930s extension added to the eastern gable wall of the original factory. A carriageway was formed to allow access into the rear yard which provides a clear break between the two phases of construction. The extension is of two storeys and 11 bays and faces directly onto Wood Street sited at the back edge of the pavement.
- 8.48 Overall, the location of the industrial buildings and their extent along Wood Street, with a uniformity of building lines, building form, roofscape, fenestration and construction materials provide a consistency of character typical of a former hosiery factory complex located within Hinckley, with each of the standing buildings contributing positively to the character and appearance and thus significance of the conservation area. The buildings have been identified as unlisted buildings of local historic or architectural importance (Factories on Wood Street) in the adopted Hinckley Town Centre Conservation Area Appraisal (HTCCAA) (2013). For similar reasons these buildings should also be considered to be local heritage assets in their own right (non-designated heritage assets in terms of the NPPF), due to their architectural and illustrative historic interest, rarity as a hosiery complex once common in the town, landmark value and

unity as a group of buildings. This assertion is made after assessing the buildings against the Borough Council's adopted selection criteria (2017) for identifying local heritage assets.

- 8.49 One lane (a "jitty"), known as Cross Keys Yard runs along the western boundary of the site and has a dog-leg adjacent to the original factory. The jitty provides an important historic link between the factories on Wood Street and the upper section of Castle Street and is a physical remnant of the historical development of Hinckley when industrial and domestic buildings were sited around them. The jitty is narrow and in part is laid with traditional blue clay pavers, with these characteristics being typical of the wider network of jitties and yards running off main streets located throughout the town centre. Consequently, the jitty contributes positively to the character and appearance and thus significance of the conservation area and is identified as being a feature of special interest within the HTCCAA.
- 8.50 The proposal seeks to end the existing employment uses on the site and redevelop it to provide a level of residential accommodation. A concept site layout and street elevation has been submitted which indicate the residential accommodation would be provided in two separate blocks across the site. The western section of the site would consist of a three storey building of a T-shaped plan (referred to hereon as block A) replacing the original factory and occupying approximately the same footprint as the existing frontage range and a slightly reduced footprint as the existing perpendicular rear range. The western elevation of this block would also face into the Cross Keys Yard jitty. Outline details of the appearance and scale of block A have been provided.
- 8.51 The eastern section of the site would comprise of the conversion of the existing 1930s two storey building into apartments with the addition of a flat roofed penthouse storey and stairwell to the rear elevation (this is referred to hereon as block B). The current link between the original factory and the extension would be removed with vehicular access to parking in the rear yard in between block A and block B. Full details of the block B have been provided.
- 8.52 The proposal seeks to demolish the whole of the original 1903 factory. Given the largely positive contribution this building makes to the conservation area its loss is considered to have an adverse impact upon the significance of the conservation area and the asset itself as a local heritage asset.
- 8.53 The plans allow for a detailed assessment of most planning matters, other than layout of block A and landscaping for the wider site being indicative. In terms of access the position of the existing vehicular access is maintained with parking largely being retained within a rear courtyard, reflective of the current site circumstances. Cross Key Yard jitty is retained as a pedestrian access from Castle Street and Wood Street and will be used for access to some of block A, adding some activity back to this historic route.
- 8.54 The concept site layout plan confirms that block A reflects the siting of previous historical industrial and domestic built form, and alongside the conversion of block B this ensures the development will maintain a uniformity of building line and maintain the strong presence of buildings within the street scene with them being located at the back edge of the pavement.
- 8.55 The prevalent building scale on the site is of buildings of two storeys in height, although this scale does feel greater than the surrounding domestic development of two storeys due to the taller floors of these functional industrial buildings. The redevelopment does increase the scale and mass of development, particular at the site frontage on Wood

Street. However, block A is to be rebuilt at a three storey domestic rather than industrial scale so the increase in the height of the building is minimal, and due to the set back and flat roof form of the additional floor for block B this reduces its visual impact and is not considered to detract from the form of the original 1930s building or have an overbearing impact upon the wider area. The proposed stairwell to the rear elevation block B is subservient in scale to the main building.

- 8.56 Block A is proposed to be rebuilt in matching materials with the architectural style, proportion & details of the original building replicated. A condition is recommended confirming that the red/orange brick for the construction of Block A be laid in an English bond as per the original building.
- 8.57 The materials for the facing walls and flat roof penthouse storey on block B are to be cladding with a pale grey colour and the rear stairwell extension to the rear is to be clad in timber with clear glazing curtain walling to the sides. These would be contemporary styled finishes that are considered to complement the retained brick finish of the original factory. The windows proposed to serve the penthouse storey are generally positioned to ensure a rhythm and consistency of appearance with the windows on the ground and first floors below. The existing steel windows are in a relatively poor condition so are proposed to be replaced with new windows of a style and proportions to match the existing, respecting the horizontal emphasis of industrial style steel windows from the 1930s architectural period. Any replacement windows upon both blocks would be expected to be of a traditional or similar material, such as steel or aluminium, details would be required via condition.
- 8.58 For the above reasons the access, layout (in terms of the siting of the blocks and retention of the Cross Keys Yard jitty) and scale of the proposed redevelopment is considered to have no adverse impact upon affected heritage assets. The appearance of the proposed redevelopment could be acceptable subject to the submission of further details which can be secured via a planning condition. A justification has been submitted with the proposal demonstrating the reasons for the continued partial vacancy of the original factory and the practical difficulties of its conversion. The continued state of disrepair with the boarding up of the windows is considered to have a detrimental impact on the current appearance of the area so bringing the building back into use will provide an enhancement to the character of the area; such a measure is identified within the Hinckley Town Centre Conservation Area Management Plan.
- 8.59 The total loss of the original factory (Block A) remains harmful; and has an adverse impact upon the character and appearance of the conservation area causing harm to this designated heritage asset. The level of harm upon the conservation area is considered to be less than substantial. As a justification has been provided for its loss and its significance has been recorded, in addition to the limited impact on the conservation area as a whole, the level of harm is considered to be towards the lower end of the spectrum of less than substantial harm. Furthermore, its loss is mitigated to a certain degree by the recording of its significance as part of the Historic Building Survey and the siting, scale and appearance (subject to the submission of further details) of the proposed block A very closely replicating its existing characteristics.
- 8.60 Although a reserved matter for part of the site, the site layout identifies opportunities for appropriate landscaping including within the site interior, on the corner of Wood Street and Priory Walk and along and within the vicinity of Cross Keys Yard which could realise further opportunities for enhancement identified within the Conservation Area Management Plan and generally for the character of the area which is presently devoid of soft landscaping. Detail of the landscaping shall be required by condition and

through approval of the reserved matters and these characteristics must be retained to ensure the desirability of new development making a positive contribution to local character and distinctiveness is achieved.

- 8.61 The redevelopment proposal provides a number of benefits towards achieving the objectives of sustainable development (see paragraph 8 of the NPPF), including some short term employment during the construction of the redevelopment, the provision of dwellings and their contribution to meeting the Borough's housing supply and the use of local services by future occupants. Previous efforts have been made towards the retention of the original 1903 factory but its conversion remains unviable, with its loss mitigated to a degree by the programme of recording its significance and block A, its proposed replacement, closely reflecting its form, siting, scale and appearance (subject to the submission of further details). The conversion of the 1930s extension is considered to retain the significance of this part of the factory complex.
- 8.62 Taking the above into account and the balanced approach required by paragraph 203 of the NPPF the proposal is not considered to have an unacceptable impact upon the local heritage asset identified. The public benefits of the development identified above and explored further within the report conclusion are considered to outweigh the less than substantial harm identified and therefore the proposal complies with policies DM11 and DM12 of the SADMP and section 16 of the NPPF. Furthermore, the proposal is considered to complement and in part enhance the character of the surrounding area, the development is also therefore in compliance with Policy DM10(c), (d) and (e) of the SADMP and Policy 1 of the Core Strategy.

Impact upon Residential Amenity

Policy/Guidance

- 8.63 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.
- 8.64 The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space, including that wherever possible internal space standards for new development should aim to exceed those set by the Housing Standards' (2015). 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.
- 8.65 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.
- 8.66 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.

Assessment

- 8.67 A number of residential properties adjoin the site. This includes properties to the north, 28-42 Wood Street, the front elevation of these properties face the site. No.1 Wood Street Close is also located to the north of the site, the blank side elevation of this dwelling faces the site. 'Rodena' and 'Avalon' are a pair of semi-detached, two storey dwellings on Priory Walk which are sited to the east of the site and immediately to the south of Block B. Further residential properties are located to the south and south east of the site on Priory Walk and Castle Street.
- 8.68 The main concern considered under the previous application (19/00464/OUT) related to increased overlooking between a proposed block further to the west of Block A and existing residents in Wood Street. This current scheme differs from planning application ref: 19/00464/OUT (Appeal Ref: APP/K2420/W/21/3281840) insofar as it no longer includes built form to the west of Block A due to this land now being within separate ownership.
- 8.69 With regards to the overbearing impact upon existing residential properties in Wood Street. The increased height of Block A from a two-storey industrial building would be minimal and it is not considered that the minor addition in the height of this building would cause additional overbearing impact or loss of light to surrounding residential dwellings. The additional storey to Block B would be set back from the existing front elevation by approximately 1.35m and from the rear elevation by approximately 1.6m and would increase the height of the building by approximately 2.3m. The set back of the additional storey is judged to mitigate adverse additional overbearing impacts and loss of light to surrounding properties. It is acknowledged that Block B has a close relationship with surrounding properties, particularly 'Rodena' to the south, however, considering the existing situation the additional storey is not considered to significantly worsen overdominance or loss of light.
- 8.70 The stairway extension to Block B is a suitable distance from the rear elevation of 'Rodena' and 'Avalon' to mitigate harmful amenity impacts.
- 8.71 The proposed change of use and extension to Block B and redevelopment of Block A will introduce residential use and change the character of the site for surrounding residents in respect of overlooking. Considering the separation distance and intervening road between the buildings and properties on Wood Street, the proposal is unlikely to lead to adverse loss of privacy to these properties. The conversion of Block B will introduce additional overlooking to the rear elevations and gardens of 'Rodena' and to a lesser extent 'Avalon'. No objections have been received from these properties. Whilst some overlooking is likely, the first floor windows closest to the rear elevation of 'Rodena' do not serve habitable rooms and therefore it is reasonable to request the first floor windows to be obscure glazed increasing the separation distance between habitable rooms. Considering the above, the obscure angle between the buildings and fact that this amenity relationship has been accepted in the past applications, on balance, the additional overlooking is not considered to be significantly adverse.
- 8.72 The separation distance between the proposed buildings and other surrounding residential properties to the south is significant and mitigates adverse amenity harm in respect of loss of light, overbearing impacts and loss of privacy.
- 8.73 Whilst the internal layout of Block A is reserved, an assessment can be made on the relationship between Block A and B based on the submitted elevation drawings. The relationship between the buildings is judged to be acceptable and complies with the Good Design Guide. The internal floorspace of the apartments within Block B largely comply with National Space Standards, however, flats 4 & 5 are 1sqm under the

required 61sqm for a 2 bed, 3 person, single storey flat. Flat 11 is 4sqm under the required 70sqm for a 2 bed, 3 person, two storey flat. In addition to the above, flats 12 and 14 are 1 bed, 1 person, two storey flats. There is no National Space Standard for a 1 bed, 1 person, two storey flat. As a 1 bed 2 person flat increases by 8sqm when changed from single to double storey the applicants architects have adopted a similar increase for a 1 bed, 1 person flat meaning that the minimum size would be 47sqm. This is judged an appropriate response and both flats comply with this standard. Overall, whilst there are some deviations from National Space Standards (3 flats in total) considering the development is working within an existing building and seeks to retain existing windows openings, this is therefore judged to be acceptable in these circumstances.

- 8.74 Additional information with respect to a Construction Environmental Management Plan is recommended via condition as are restrictions on construction hours.
- 8.75 It is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage (for the outline elements), would ensure sufficient scrutiny and control. Therefore, it is considered that the proposed development is in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Flood Risk and Drainage

- 8.76 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.
- 8.77 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.
- 8.78 The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning being at low risk of fluvial flooding and is not identified as being at risk of surface water flooding.
- 8.79 The LLFA advises that the proposals are acceptable subject to conditions to secure a surface water drainage scheme, management and maintenance of surface water. Subject to the suggested conditions, it is considered that the proposed development would satisfy Policy DM7 of the SADMP and the NPPF.

Ecology and Biodiversity

- 8.80 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.
- 8.81 The County Ecologist has assessed the site and information and has not requested any ecology surveys, however, has required swift boxes/bricks to be placed within the development. This will be secured via condition. The site is currently devoid of any soft landscaping, therefore the proposal has potential to increase this and associated biodiversity.

- 8.82 Subject to the above this application is considered to be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Infrastructure Contributions

- 8.83 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.
- 8.84 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:
- A) Necessary to make the development acceptable in planning terms;
 - B) Directly related to the development; and
 - C) Fairly and reasonably related in scale and kind to the development.
- 8.85 The contributions sought are detailed below:
- Waste – Barwell HWRC £1, 287.78
 - Libraries- Hinckley Library £739.84
 - Secondary Education (11-16)- Hastings High School £10, 965.32
 - Post 16 Education- The Hinckley School £2, 369.30
 - Off site Equipped Children’s Play Space contribution- £17, 028.65
 - Off site Equipped Children’s Play Space maintenance contribution- £8, 218.08
 - Off site Casual/Informal Play Spaces contribution- £1, 939.39
 - Off site Casual/Informal Play Spaces maintenance contribution- £2, 358.72
 - Off site Outdoor Sports Provision contribution- £9. 035.52
 - Off site Outdoor Sports Provision maintenance contribution- £4, 293. 12
 - Off site Accessibility Natural Green Space contribution- £4, 253.60
 - Off site Accessibility Natural Green Space maintenance contribution- £7, 384.00
 - S106 monitoring fees

The total S106 financial contribution resulting from the development of the maximum 26 dwellings is £69, 873.32.

- 8.86 All the above contributions are considered to meet the tests for planning obligations and would therefore normally form part of the Section 106 legal agreement to be formulated should the application be approved.

Viability

- 8.87 The applicant submitted a viability assessment prepared by Intali in May 2021. It calculates an existing use value (EUV) of £539,809 and adopts a landowner premium of 20%. The residual land value is calculated to be £54,414 and the Benchmark Land Value (BLV) is calculated at £712,571.

- 8.88 As the residual value of the scheme is less than the BLV, the appellant concludes that the scheme cannot viably secure affordable housing provision or provide the requested contributions as set out above.
- 8.89 The Council appointed Aspinall Verdi, an independent consultant, to review the viability appraisal submitted by the applicant under application 21/00692/OUT. The basic principles of the proposal have not changed, therefore in this case a new viability assessment and independent consultation has not occurred.
- 8.90 In assessing the appellants viability statement, Aspinall Verdi reviewed the residential market in and around Hinckley and the outputs were used to inform the sales values used in financial appraisals.
- 8.91 The value of a site is a key consideration within a viability assessment as the 'cost' of the land or Benchmark Land Value (BLV) needs to be taken into account within any financial appraisal. It was agreed between the parties that the sale of the adjacent site is the most direct comparable to calculate the EUV and this was used to arrive at the EUV, however, using the applicants approach, the Council calculated the BLV to be £593,809 and not £539,809.
- 8.92 The Council's independent assessor appraised the residual land value compared to the benchmark land value. The appraisal reflects two scenarios, (1) where the properties are sold on the open market and (2) where the units would include 20% affordable units. The table below compares the BLV and RLV for both scenarios:

Table 7.1 - Policy Compliant Appraisal Outturn

Assumptions	Market Value Appraisal	Policy Compliant Appraisal
Total GDV	£3,805,000	£3,493,250
Total Development Costs	£2,602,312	£2,560,688
S106 Contribution	-	-
Profit on GDV	£665,875 / 17.50%	£566,905 / 16.23%
Benchmark Land Value	£593,809	£593,809
Residual Land Value	£512,706	£348,215

Source: AspinallVerdi, February 2022

- 8.93 As can be seen in the table above, the residual land value of both scenarios would be less than the benchmark land value which concludes that the scheme cannot provide a policy compliant scheme with regards to providing the necessary s106 contributions and affordable housing provision. Therefore, any suggested contributions will not be secured and neither will affordable housing due to the viability of the site.
- 8.94 Policy DM3 states that where, because of the physical circumstances of the site and/or prevailing and anticipated market conditions, a developer can demonstrate that the viability of a development proposal affects the provision of affordable housing and/or

infrastructure provision, the Borough Council will balance the adverse impact of permitting the scheme on the delivery of such provision, with any identified planning benefits of the scheme. Where current viability is proposed as a justification to deliver a reduced level of infrastructure provision, than that required by policy, developers are required to provide the appropriate evidence to support this justification.

- 8.95 Paragraph 58 of the NPPF states: *“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”*
- 8.96 In this case it is judged that the applicant has provided appropriate evidence to support the justification in compliance with Policy DM3.
- 8.97 Given the lack of S106 contributions which this development can contribute, it could be argued this development would not constitute sustainable development. However, were HBBC to insist upon the S106 requirements it is highly likely that the site will not currently be developed. In this scenario, considering the previous failed attempts at redeveloping the site it is likely that the buildings would continue to deteriorate. The buildings are within the Conservation Area and identified as non designated heritage assets in their own right. The redevelopment of the site would ensure that building B is kept in use, with the remainder of the site maintained to a good standard.
- 8.98 Officers consider that the re-development of this site without the S106 requirements will positively preserve the Conservation Area, compared to the existing situation and potential further deterioration of the site. Furthermore, the proposal will positively contribute to housing supply in this highly sustainable location and otherwise complies with the relevant policies of the development plan and therefore the development would be sustainable development. When carrying out the balancing exercise required within policy DM3 the benefits of the development are considered to outweigh the harm.
- 8.99 The sensitivity analysis carried out by Aspinall Verdi has shown that if construction rates were to fall between 2.50-5.00% or sales values increase by 2.50-5.00% then the scheme could viably produce a residual land value that exceeds the BLV. Based on these outcomes, officers recommend that a viability review mechanism is installed within a Section 106 Agreement to allow the Council to benefit from any favourable changes in viability.

Conclusions and Planning Balance

- 8.100 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.
- 8.101 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement

than is now required. It is necessary therefore to consider that 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.

- 8.102 On the whole the application accords with the development plan and is acceptable in principle. The provision of up to 26 dwellings, in this highly sustainable location, is considered to be a benefit of the proposal, which coupled with the compliance with the plan led approach and use of brownfield land is given significant weight in favour of the scheme.
- 8.103 The proposed development is not considered to have a significant harmful effect on the character and appearance of the area. In this regard it would be acceptable and consistent with the requirements of Policy DM10 of the SADMP.
- 8.104 The effects of this proposed development are not considered to pose an unacceptable impact on highway safety, in accordance with the requirements of Policy DM17 and DM18 of the SADMP.
- 8.105 The proposal would cause less than substantial harm to the Conservation Area through the total demolition of Building A. This harm is considered to be at the lowermost end of this spectrum of harm. The proposal can demonstrate a minor heritage benefit in bringing one of the buildings back into use and appropriate landscaping. Furthermore, the buildings loss is mitigated to a certain degree by the recording of its significance as part of the Historic Building Survey and the siting, scale and appearance (subject to the submission of further details) of the proposed Block A very closely replicating its existing characteristics. These benefits are attributed minor positive weight. Other non-heritage related public benefits such as the provision of housing, short term employment during the construction of the redevelopment and the use of local services by future occupants exist. These benefits are attributed modest weight and overall the benefits outweigh the harm and the proposal therefore complies with Policies DM10, DM11 and DM12 of the SADMP, Policy 1 of the Core Strategy and section 16 of the NPPF.
- 8.106 The effects of this proposed development in relation to residential amenity are, on balance, not considered to pose an unacceptable impact in accordance with the requirements of Policy DM10 of the SADMP and the Good Design Guide.
- 8.107 Subject to conditions the proposed development is judged to be acceptable in ecological and flooding/drainage terms and is in accordance with the requirements of Policy DM6 and DM7 of the SADMP.
- 8.108 The proposal would not bring forward the relevant S106 requirements owing to viability issues. However, officers consider that the re-development of this site within the Conservation without the S106 requirements will positively preserve the Conservation Area compared to the existing situation and potential further deterioration of the site. Furthermore, as above, the proposal will positively contribute to housing supply in this highly sustainable location and otherwise complies with the relevant policies of the development plan. When carrying out the balancing exercise required within policy DM3 the benefits of the development are considered to outweigh the harm.
- 8.109 Consequently, taking into account the housing land supply position, it is considered that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF

when taken as a whole. Therefore, under the tilted balance, planning permission should be granted in these circumstances.

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 That the application be Approved subject to the conditions set out below and subject to the entering into of a S106 Agreement to secure the viability review mechanism.

10.2 Conditions

1. The development to which the FULL planning permission relates 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 to which the FULL planning permission relates shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Street Elevations – 19/28 06d – received 15/06/2023
- Building B Proposed Floor Plan- 19/28 19b- received 14/06/2023
- Building B Proposed Elevations- 19/28 20b- received 14/06/2023
- Concept Site Layout- 19/28 05h- received 16/03/2023
- Location Plan- 19/28 16a- received 19/07/2022

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 associated with the OUTLINE element of the consent shall commence until details of layout and landscaping (hereafter call the reserved matters) have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

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

4. Application for approval of reserved matters shall be made within three years of 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.

5. The development to which the OUTLINE planning permission relates shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Buildings A & C Proposed Elevations- 19/28 18a- received 14/06/2023
- Concept Site Layout- 19/28 05h- received 16/03/2023
- Location Plan- 19/28 16a- received 19/07/2022

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).

6. No more than 26 residential units shall be constructed on the site.

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

7. No development associated with the OUTLINE element of the consent shall commence until full details of the finished levels, above ordnance datum, of the ground floors of the proposed building in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of the proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.

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

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

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

9. No part of the development shall be occupied until such time as the offsite works to widen the existing access, and widen the footway on Wood Street, shown indicatively on Hayward Architects drawing number 05 Rev F, have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

10. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Hayward Architects drawing number 05 Rev F 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 Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

11. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Hayward Architects drawing number 05 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 and in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

12. No development above foundation level, to which the FULL planning permission relates, shall commence until a scheme for the installation of electric vehicle charging points is submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number of units to benefit from electric vehicle 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 Development Plan Document (2016) and paragraph 112(e) the National Planning Policy Framework (2021).

13. No development above foundation level, to which the OUTLINE planning permission relates, shall commence until a scheme for the installation of electric vehicle charging points is submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number of units to benefit from electric vehicle 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 Development Plan Document (2016) and paragraph 112(e) the National Planning Policy Framework (2021).

14. The development associated with the FULL element of this consent shall not be occupied until such time as secure (and under cover) cycle parking has been 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 Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

15. The development associated with the OUTLINE element of this consent hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking has been 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 Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

16. 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 vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary, nor shall any be erected within a distance of 5 metres of the highway boundary unless hung to open away from the highway.

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 Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

17. Notwithstanding the submitted plans, any new / replacement windows and/or doors within 0.5 metres of the Wood Street frontage / footway shall not open so to overhang the public highway and shall thereafter be maintained in perpetuity.

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

18. No development associated with the OUTLINE element of this consent shall take place until a scheme and timetable for delivery for the treatment of Public Right of Way V8 has been submitted and approved in writing by the Local Planning Authority. Such a scheme shall include provision for their management during construction (including any arrangements for a temporary diversion) fencing, surfacing, width, structures, signing and landscaping in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers. Thereafter the development shall be carried out in accordance with the approved scheme and timetable.

Reason: To protect and enhance Public Rights of Way and access in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

19. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation.

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

20. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

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

21. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance both in terms of flood risk and water quality of the surface water drainage system in accordance with Policy DM7 of the SADMP (2016).

22. No development above foundation level, to which the FULL planning permission relates, shall commence on site until representative samples and/or details of the materials and architectural detailing to be used on the buildings 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 details. The details shall include:-

- Cladding for the building (including material, finish and colour)
- Windows and doors (including style, specification, frame material, finish, colour, reveal, cill and header treatments)
- Rainwater goods (including style, specification, frame and colour)

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and to preserve the significance of the Hinckley Town Centre Conservation Area in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), section 16 of the National Planning Policy Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

23. No development above foundation level, to which the OUTLINE planning permission relates, shall commence on site until representative samples and/or details of the materials and architectural detailing to be used on the buildings 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 details. The details shall include:-

- Brick details (including material, colour and bond). The brick shall be laid in English bond.
- Roof tile (including material and colour)
- Windows and doors (including style, specification, frame material, finish, colour, reveal, cill and header treatments)
- Rainwater goods (including style, specification, frame and colour)

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and to preserve the significance of the Hinckley Town Centre Conservation Area in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), section 16 of the National Planning Policy Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

24. No demolition works to which the OUTLINE planning permission relates shall commence until a contract has been let to carry out the building operations permitted under this permission (or any superseding consent as first agreed in writing by the Local Planning Authority) has been made.

Reason: To avoid premature demolition which would be harmful to the

character and appearance of the Hinckley Town Centre Conservation Area and to safeguard the local environment and in accordance with the aims and objectives of the National Planning Policy Framework and in accordance with Policies DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

25. 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).

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

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

27. Upon completion of any remediation works a Verification report shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site.

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

28. Prior to commencement of development to which the FULL planning permission relates a Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. 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 - 18:30
Saturday 09:00 - 14:00
No working on Sundays and Bank Holidays

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).

29. Prior to commencement of development to which the OUTLINE planning permission relates a Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. 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 - 18:30
Saturday 09:00 - 14:00
No working on Sundays and Bank Holidays

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).

30. 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 first phase of archaeological works. Further WSI/s would be needed for Mitigation stage/s. For land that is included within the WSIs, 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 as set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with the requirements of Policies DM11, DM12 and DM13 of the Site Allocations and Development Management Policies Development Plan Document (2016).

31. Prior to commencement of development to which the FULL planning permission relates a Building for Healthy Life Assessment of the proposal shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is appropriate to the local area and meets amenity standards in accordance with policy DM10 of the Site Allocations and Development Management Policies DPD and the Good Design Guide SPD.

32. Any reserved matters application shall be accompanied by a Building for Healthy Life Assessment of the proposal.

Reason: To ensure the development is appropriate to the local area and meets amenity standards in accordance with policy DM10 of the Site Allocations and Development Management Policies DPD and the Good Design Guide SPD.

33. The development associated with the FULL element of this consent hereby permitted shall not be occupied until:
- a) a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, and
 - b) a Landscape Management Plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas 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 and management plan. 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 and that the landscaping work is carried out within a reasonable period and thereafter maintained in accordance with Policies DM6, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

34. The development associated with the OUTLINE element of this consent hereby permitted shall not be occupied until:
- a) a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, and
 - b) a Landscape Management Plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas 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 and management plan. 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 and that the landscaping work is carried out within a reasonable period and thereafter maintained in accordance with Policies DM6, DM10,

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

35. No development to which the FULL planning permission relates 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).

36. No development to which the OUTLINE planning permission relates 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).

37. Prior to the occupation of each dwelling/unit on site full fibre broadband connection should be available and ready for use.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the National Planning Policy Framework (2021).

38. The development associated with the FULL element of this consent hereby permitted shall not be occupied until Swift boxes/bricks are installed onto the building. Swift boxes should be in groups of three with at least one group installed on the building. The swift boxes shall be installed in accordance with the [the Swift Partnership guidance](https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2018/4/16/swiftsafe-device-to-planners-and-developers.pdf) <https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2018/4/16/swiftsafe-device-to-planners-and-developers.pdf>

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

39. The development associated with the OUTLINE element of this consent hereby permitted shall not be occupied until Swift boxes/bricks are installed onto the building. Swift boxes should be in groups of three with at least one group installed on the building. The swift boxes shall be installed in accordance with the Swift Partnership guidance

https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2018/4/16/swiftsa_dvice-to-planners-and-developers.pdf

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

40. Notwithstanding the submitted details prior to first occupation of the development associated with the FULL element of this consent. The first floor windows serving the bathroom of Flat 13, hallway for Flats 10 and 11 and bathroom window for Flat 10 shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and once so provided shall be permanently maintained as such at all times thereafter.

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

11. Notes to Applicant

1. 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.
2. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001)
3. A Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
4. Public Rights of Way must not be further enclosed in any way without undertaking discussions with the local Highway Authority (telephone 0116 305 0001).
5. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
6. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Local Highway Authority.
7. Nesting birds and bats, their roosts and their access to these roosts, are protected under the Wildlife and Countryside Act 1981 and the Conservation

(Natural Habitat etc) Regulation 1994. Therefore, should birds or bats be present, works should be deferred until the late summer/autumn.

8. Drainage:
 - The Surface Water Drainage scheme required shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations.
 - Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for event durations up to the 24 hour (or longer where required) for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods with results ideally showing critical details only for each return period.
 - Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
 - Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual property ownership. For commercial properties (where relevant), this should also include procedures that must be implemented in the event of pollution incidents.
9. In relation to the Contaminated Land conditions advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.

Planning Committee 22 August 2023
Report of the Head of Planning (Development Management)

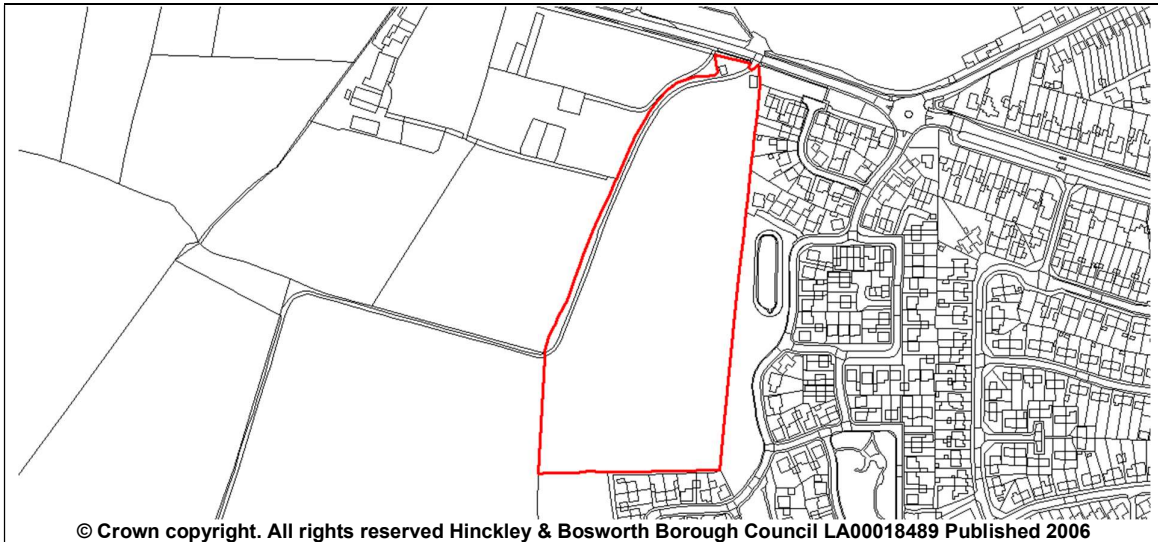


Hinckley & Bosworth
Borough Council

Planning Ref: 23/00061/OUT
Applicant: Mr Mitesh Rathod
Ward: Newbold Verdon with Desford & Peckleton

Site: Land Adjacent to Lockey Farm Hunts Lane Desford

Proposal: Residential development of up to 100 dwellings with associated public open space and infrastructure (All matters reserved except for access).



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.
- The entering into of a S106 Agreement relating to affordable housing, highway improvements, open space provision and management and the financial contributions detailed above.
- That the Head of Planning be given powers to determine the final detail of planning conditions

2. Planning Application Description

2.1. The application seeks outline permission for the provision of a residential development of up to 100 dwellings with associated public open space and infrastructure at the Land adjacent to Lockey Farm, Hunts Lane, Desford. The scheme includes 60 units for market housing and 40 units for social, affordable, or intermediate rent within 2.85ha of the site, which creates a development density of 35 dwellings per hectare.

2.2. Only access is sought for approval within this outline application, and all other matters are reserved for a future application. Access is proposed to the site via a new simple priority junction onto Hunts Lane. As a result of this, the adjacent Public Right of Way (PRoW), Footpath R95, is reduced to 2m in width at the entrance to the site.

2.3. The Design and Access Statement suggests that the majority of the residential units are two to two-and-a-half-storey in massing, but none shall exceed this massing.

There are also bungalows are indicated towards the south of the site. These properties are suggested to be constructed in red brick, and a mixture of slate and red tile roofs. Certain feature properties may include a rendered finish, and some units incorporate front porches. The Design & Access Statement suggests that all dwellings within the scheme are provided with two off-street parking spaces including spaces within garages. All these matters though and for a future application.

- 2.4. The Planning Statement and the Illustrative Site Plan suggest that the scheme creates a total of 1.3ha of green infrastructure, which is over 31% of the site area. Surface water is disposed of via a sustainable drainage system and the existing water course.
- 2.5. The application is accompanied by the following reports and documents:
- Arboricultural Assessment
 - Archaeological Desk-Based Assessment
 - Biodiversity Net Gain Metric
 - Design & Access Statement
 - Ecological Appraisal
 - Flood Risk Assessment & Outline Drainage Strategy
 - Framework Travel Plan
 - Geophysical Survey Report
 - Illustrative Masterplan
 - Phase 1 Environmental Report
 - Planning Statement
 - Response to LCC's 5th June 2023 Highways Consultation Response
 - Road Safety Audit Decision Log
 - Site Location Plan
 - Stage 1 Road Safety Audit
 - Transport Assessment

3. Description of the Site and the Surrounding Area

- 3.1. The 4.15ha application site is located adjacent to, but outside of, the western settlement boundary of Desford within the designated countryside. Desford is classified within the adopted Core Strategy as a Key Rural Centre relating to Leicester.
- 3.2. Outside of the identified settlement boundary of Desford, the application site is located within the Newbold and Desford Rolling Farmland, which is identified as Character Area D within the Council's Landscape Character Assessment (2017). Key characteristics of this area include gently rolling landform that rises to the north from the lower lying land around the River Soar, and clustered villages of varying size centred on crossroads. The rural settlement pattern of compact and nucleated agricultural settlements connected by a network of rural lanes and minor roads is largely unspoiled. The rural landscape and sense of tranquillity is sensitive to change from further development.
- 3.3. The application site is currently a large single arable field that has two mobile phone masts towards its northern boundary and two sets of powerlines that travel east to west across the site. The land is relatively level, with a gentle slope from the southeast corner to the northwest of the site, and there are existing hedgerows and trees along its boundaries. A Public Right of Way (PRoW), Footpath R95, also runs within and along the western boundary of the site and this footpath runs north to south from Hunts Lane, and then proceeds southwest towards the south of the site.

- 3.4. The site is bounded by Hunts Lane to the north, and beyond this is Desford Cemetery and open agricultural fields. Further agricultural uses are located to the southwest of the site. To the east and south of the site are residential dwellings within the identified settlement boundary of Desford. The Hunts Lane Allotments is located to the west of the site, which is accessed via a track from Hunts Lane. Hunts Lane is a classified 'B' road (B582) that is subject to a 40mph speed limit.
- 3.5. The application site is identified as a reserve site to meet the housing requirements of Desford within Policy H3 of the Desford Neighbourhood Development Plan (2021). The Neighbourhood Plan does not state the capacity of the site, but the site is described within Paragraph 42 of the Examiner's Report of the draft Neighbourhood Plan to have a capacity for approximately 62 three-bedroom houses.
- 3.6. The application site is located within Flood Zone 1 and is considered to have a very low probability of flooding.

4. Relevant planning history

- 4.1. None.

5. Publicity

- 5.1. The application has been publicised by sending out letters to 372 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, 433 responses were received, 354 of which were from different households. All responses objected to the development, and raised the following concerns:
1. Highway safety concerns.
 - The scheme exacerbates existing traffic and congestion issues within Desford.
 - The existing roads within Desford were not built to accommodate this level of traffic.
 - Multiple traffic incidents have already occurred near the site, and further traffic will exacerbate this.
 - Pedestrian safety concerns for children attending the primary school and Kirkby Road Park.
 - The Key Rural Centre has poor transport sustainability, and the future occupiers will be dependent on private motorised vehicles to meet their day-to-day needs.
 - Existing traffic speeds are excessive along the B582.
 - Increased on-street parking within Desford and near local services and facilities.
 - The proposed site access does not provide safe access or egress to the site in these site-specific circumstances.
 - Limited vehicular visibility at the site access as it is on the brow of a hill.
 - Existing traffic has already been exacerbated by HGVs and construction vehicles at the commercial units along Peckleton Lane and the other residential developments being provided within Desford.
 2. Infrastructure concerns.
 - Local services such as the schools and doctors are already oversubscribed and cannot take more people.
 - Insufficient facilities and services to cope with additional users.
 3. Desford is already overdeveloped.

- The Key Rural Centre has met its obligation to provide additional housing with residential developments taking place along Peckleton Lane and Barns Way, alongside the commercial development on Peckleton Lane.
4. Significant adverse harm to the countryside.
 - Development on arable fields causes significant visual harm.
 - Erosion of the green space and settlement separation between Desford and Newbold Verdon.
 - Loss of farmland.
 5. Significant adverse harm to the character of Desford.
 - Loss of rural character.
 - The growth of Desford is destroying its character as a village.
 6. Ecological harm and harm to wildlife within the site.
 - Wildlife, trees and hedgerows will be destroyed during this development.
 7. Significant adverse harm to the residential amenity of neighbouring properties.
 - Air pollution.
 - Increases in anti-social behaviour.
 - Light pollution.
 - Loss of visual amenity.
 - Noise pollution.
 8. Harm to the existing Public Right of Way, Footpath R95.
 9. Flooding concerns.
 10. Overdevelopment of the site.
 11. Inappropriate location for development adjacent to Desford Cemetery.
- 5.3. It has been noted by members of the public that, contrary to Section 3.4.3 of the Applicant's Transport Assessment, the Arriva Bus Service 152 is no longer operational through Desford.

The Planning Officer notes that the Arriva Bus Service 152 was discontinued on Tuesday 03 January 2023.

- 5.4. A couple of members of the public suggested that Leicester Lane or locations to the east of the Key Rural Centre may be a more suitable location for further residential development.
- 5.5. A selection of members of the public also requested that the determination of this application and further housing applications is paused until the review of the Desford Neighbourhood Development Plan has been completed.

The Planning Officer notes that it would be considered unreasonable of the Local Planning Authority to delay the determination of applications to accommodate potential revisions to the Development Plan.

- 5.6. A number of the responses also referred to application site as, “Greenbelt land,” and the diminishing access to public open green space.

It is highlighted by the Planning Officer that the site is not in a formal green belt or green wedge. In addition, the development does not reduce access to publicly accessible areas of open green space.

- 5.7. One member of the public has highlighted that the hedge that adjacent to Shericles Way is not within the ownership of the Applicant and cannot be removed. Another member of the public has stated that they have been granted unrestricted vehicular access to the Public Right of Way track within the application site.

The Planning Officer notes that the Applicant could not remove hedgerow or commence development on land that is not within their ownership, or without the express permission of the owner(s) of the land.

- 5.8. Some members of the public have expressed disappointment at the Applicant’s disregard to the Desford Neighbourhood Development Plan.

- 5.9. Ultimately, the overwhelming response from members of the public has been that Desford does not want to, and cannot, accommodate further residential development.

6. Consultation

- 6.1. To summarise, there has only been one objection to the application as a result of statutory consultation, which was from Desford Parish Council.

6.2. Desford Parish Council

Desford Parish Council objects to the application for the following reasons:

- The development is, “Clearly,” in breach of the Desford Neighbourhood Plan (2021).
- Highway safety concerns.
 - Additional traffic from 100 houses
 - A simple priority junction cannot provide safe access into the site at this location.
 - Vehicular visibility concerns as traffic from the west travels over the brow of a hill at 40mph along Hunts Lane.
- Increasing pressure on existing infrastructure such as schools, doctors, and dentist services within Desford.
- Significant adverse effects on the character of the area.
- Significant adverse effects on the residential amenity of neighbouring residents, particularly as a result of using nearby estate roads and junctions.

Desford Parish Council has also suggested that the development is presumed to cause harm to the Local Plan and the Desford Neighbourhood Plan by virtue of Paragraph 11(d) of the National Planning Policy Framework. As a result of this, Desford Parish Council consider the scheme to do irreparable harm to local peoples’ faith in localism. The Parish Council have referred to the content of the Levelling Up and Regeneration Bill, which is currently going through Parliament, and the draft of the National Planning Policy Framework, and have suggested that the application should not be considered until these issues are finalised.

The Planning Officer notes that, as the proposed reforms to the Levelling Up and Regeneration Bill and the National Planning Policy Framework have not yet been implemented, they are currently offered minimal weight in the planning balance. It is also considered that the Local Planning Authority would be unreasonable to delay the determination of applications to accommodate potential future legislation.

If permission is granted for this development, Desford Parish Council requests that they are consulted on the allocation of Section 106 funds within the Parish.

6.3. Environment Agency

The Environment Agency have not made any formal comment on the submission. This is because the development falls within Flood Zone 1, and therefore the Environment Agency have no flood risk concerns associated within the site. Furthermore, there are no other environmental constraints associated with the application site that fall within the remit of the Environment Agency.

6.4. National Grid

No response to date.

6.5. NHS England

As part of the NHS Trust, the University Hospitals of Leicester have requested a contribution of £39,638.00 to go towards the gap in funding created by each potential patient from this development.

However, Section 122(2) within the Community Infrastructure Levy (CIL) Regulations (2010) states that a planning obligation may only constitute a reason for granting permission for the development if the obligation is:

- (a) Necessary to make the development acceptable in planning terms.
- (b) Directly related to the development
- (c) Fairly and reasonably related in scale and kind to the development.

It is noted that the High Court of Justice ruling from 13 February 2023 between R (on the application of the University Hospitals of Leicester NHS Trust) and Harborough District Council, Leicestershire County Council, and Hadraj Limited, dismissed the University Hospitals of Leicester's appeal against the District Council for not requiring a financial contribution via Section 106 Agreement towards the delivery of health care by the Trust to mitigate what were said to be the harmful effects of additional demands upon its services.

The NHS Trust states that it is funded from the social security contributions and other State funding. The annual funding for the Trust is based on the previous year's activity, and as such it is not related to local planning authorities' housing needs, projections or land supply. Within their response to the application, the Trust stated that there is no possibility to change the NHS funding model, or the spending priorities of the Government.

Whilst it is acknowledged that financial contributions to the Borough's medical infrastructure are important, it is considered that, by virtue of the reasoning for the financial contributions, and the systematic funding issues with the Trust, the request is not directly related to the development, nor necessary to make the development acceptable in planning terms. This is because, if there was no funding gap within the NHS' funding model, then there would not be any relevant impacts to justify a Section 106 contribution. In such circumstances, the Local Planning Authority cannot properly require the Applicant to contribute to those additional costs.

Given the above, the Council does not consider this request to be CIL-compliant, and therefore this contribution has not been included in the financial contributions that are sought within a Section 106 Agreement for this application.

6.6. **Severn Trent Water**

No response to date.

6.7. **Local Highway Authority**

Originally the Local Highway Authority (LHA) did not consider the application as submitted to fully assess the highway impact of the proposed development, and further information was required to provide final highway advice on the application. As a result of this, the LHA requested additional information in relation to detailed highway impacts, such as a Stage 1 Road Safety Audit, revisions to the geometry of the site access, and modelling of the Desford Crossroads.

Since then, the Applicant provided a Response to LCC Highways Consultation Response on 03 May 2023. A Stage 1 Road Safety Audit and a further response to the Highways Consultation Response was received on 03 July 2023.

The Local Highway Authority made its final comments on 09 August 2023 and concluded that, in their view, the impacts of the development on highway safety are not unacceptable, and when considered cumulatively with other developments, the impacts on the road network are not severe.

Contributions

1. A contribution of £1,551,088.81 towards improvements to the A47 / B582 Desford Road (Desford Crossroads) junction is considered appropriate by Leicestershire County Council in consultation with Hinckley and Bosworth Borough Council.

Justification: To mitigate against the impact of the development in line with the submitted transport evidence.

2. To comply with Government guidance in NPPF and commensurate with Leicestershire County Council Planning Obligations Policy the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use:
 - a) Travel Packs, one per dwelling; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack). Justification: To inform new residents from first occupation what sustainable travel choices are available in the surrounding area.
 - b) Six-month bus passes, two per dwelling (two application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at the current cost of £360.00 per pass). Justification: To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.
 - c) A Travel Plan monitoring fee of £6,000.

Justification: To enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.

Highway Safety

The Local Highway Authority checked its own Personal Injury Collision (PIC) database and identified four PICs that have occurred within the last five years within the same study area as the Applicant's Transport Assessment. Two of these were classified as 'slight' in severity whilst the other two were classified as 'serious.' The Local Highway Authority have considered the circumstances of these PICs and believe that there are no existing road safety issues in the vicinity of the site.

Internal Layout

The internal layout of the development is not for consideration at this stage, and therefore the Local Highway Authority strongly advise the Applicant that, in the event that the development is granted planning permission, the internal road network is designed to an adoptable standard in accordance with the Leicestershire Highway Design Guide (LHDG) guidance for possible adoption in the future.

Junction Capacity Assessments

The Applicant has undertaken capacity assessments at the following junctions:

1. Hunts Lane / Site Access proposed priority-controlled 'T' Junction.
2. Hunts Lane / Newbold Road / Lockeymead Drive Roundabout.
3. High Street / Manor Road / Main Street Roundabout.

As the Automatic Travel Count (ATC) survey was undertaken by the Applicant between Monday 31 October 2022 and Sunday 06 November 2022, the Local Highway Authority do not require COVID-19 uplift factors for these surveys due to the date that they were undertaken.

As a result, the Local Highway Authority are satisfied that the Site Access and Hunts Lane / Newbold Road / Lockey Mead Drive Roundabout can operate within their practical limits of capacity. The Local Highway Authority are also satisfied that that the applied growth factors within Section 5.1 of the Applicant's Transport Assessment are acceptable.

Further to the Local Highway Authority's previous observations, the Applicant modelled the proposed development's impact on the 'Desford Crossroads', which is junction connecting the A47 Hinckley Road, B582 Leicester Lane and B582 Desford Road using the Local Highway Authority's LINSIG model. The capacity assessment results indicate that this junction will operate above capacity in 2028 prior to the addition of committed development traffic and traffic associated with the proposed development. The Applicant has further compared the 2028 background and committed development traffic with the proposed development traffic and has calculated that the proposed development results in an, "Almost 0%," increase in traffic in both the AM and PM peaks.

In addition, following the submission of Junction 9 model files within Appendix D of the Applicant's Highway Consultation Response from 03 July 2023, which included HGV percentages in the Vehicle Mix matrix and the amended results shown in Table 1 of the main report, the Local Highway Authority are satisfied that the High Street /

Manor Road / Main Street Junction can operate within the practical limit of capacity in all scenarios.

Moreover, the Local Highway Authority is satisfied that the Leicester Lane / Barns Way Junction has been modelled in a consistent manner with the 'Ashfield Farm' application and that this Junction is likely to operate within the practical limit of capacity in all scenarios.

Notwithstanding this, to mitigate the cumulative impact of development traffic in the local area, the Local Highway Authority is progressing with a scheme of mitigation at the Desford Crossroads. As a result, the Local Highway Authority advises that the Applicant is required to make a fair and reasonable Section 106 contribution to the highway works, which will replace the current signal crossroads with a four-arm roundabout.

Off-Site Implications

The development widens the existing footway on Hunts Lane to 2m, which ties in to an existing 2m-wide section of existing footpath that is 62m to the east of the access. This is considered to be in accordance with Table DG9 of Part 3 of the LHDG.

The Local Highway Authority have requested that the Applicant undertakes the footway improvements works along Hunts Lane as indicated on Tetra Tech drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03.

Public Rights of Way (PRoW)

The Local Highway Authority has no objections to the development proposal's impact on Public Right of Way (PRoW) Footpath R95, at this stage, subject to conditions.

Site Access

The Local Highway Authority previously advised in pre-application advice that the Applicant should consider providing an access via Lockeymead Drive, but the current submission does not suggest that such consideration has been given. In spite of this, the Local Highway Authority has expressed disappointment that access rights could not be agreed, given the potential benefits that a link would have in reducing pedestrian / cycle journey times to services in the village (particularly Desford Primary School and the village park). Nevertheless, the Local Highway Authority does not support a refusal of the application on this basis.

The Applicant advised that they do not have access rights across the land to the east to provide an access via Lockeymead Drive. As such, the access to the site is proposed via Hunts Lane, which has recorded 85th percentile vehicle speeds of 38.9mph in an eastbound direction and 42mph in a westbound direction.

The original 'Response' document indicated that speed reduction measures are proposed on Hunts Lane that consist of a reduced speed limit to 30mph for 112m to the west of the site access alongside a gateway entry feature, teeth markings, speed limit rounded markings, and improved welcome signs.

Notwithstanding the previous highway observations, the Local Highway Authority has investigated the Traffic Regulation Order for the speed limits on Hunts Lane further and have established that the speed limit at the site access is 40mph as per the current signage. The Local Highway Authority are not supportive of a 30mph speed

limit extension on Hunts Lane, as the Local Highway Authority has concerns that the lack of frontage development and rural nature of the road in this location would reduce the effectiveness of the existing 30mph speed limit. As a result of this, the previously proposed speed limit change and associated gateway entry feature has been removed from the proposed site access arrangement.

However, following this, the RSA1 identified the current speed limit change / village gateway to present a hazard for the new access, as vehicles would be focusing on these measures as opposed to traffic turning into or out of the access. The RSA1 recommended that the 30mph speed limit / village gateway be relocated to the west of the proposed site access junction.

Notwithstanding the RSA1, the Local Highway Authority are not supportive of the proposed change in speed limit given its rural nature and lack of frontage development, which - in the LHA's view - is likely to reduce the effectiveness of the existing 30mph speed limit. Nevertheless, the Local Highway Authority is satisfied that vehicular visibility splays of 2.4 metres by 120 metres can be provided in both directions, which is in accordance with Table DG4 of Part 3 of the LHDG.

No vertical visibility splay drawings have been submitted in support of this application as the Applicant has contended that the change in gradient on Hunts Lane is approximately 140m west of the proposed site access, which is beyond the required 2.4m x 120m visibility splay. After further assessment work, the Local Highway Authority are satisfied that gradient changes would not affect the required vehicular visibility splays, and that the splays are in accordance with Figure DG2 of Part 3 of the LHDG.

The site's access has a carriageway width of 6.75m, a kerbed radii of 6m, and 2m width footpaths on either side of it. This carriageway width is greater than the 5.5m required by Table DG1 of Part 3 of the Leicestershire Highway Design Guide (LHDG). The Applicant suggests that this has been proposed in order to futureproof the site for potential development.

Transport Sustainability

Table 2 within the Applicant's Transport Assessment indicates that food and grocery store, medical centre and play park are located within 800m of the application site, which is in accordance with Paragraph 1.38 of Part 1 of the Leicestershire Highway Design Guide (LHDG). In addition, Table 2 suggests that café, primary school, pharmacy, secondary school, and day nursery are located within 1.2km of the application site. The Transport Assessment also suggests that the application site is within 800m of bus stops with minimum hourly services to Leicester and Market Bosworth.

However, the site is not within 5km of the Principle Urban Area of Leicester or a Sub Regional Centre and, as such, is not fully in accordance with Paragraph 1.38 of Part 1 of the LHDG. Notwithstanding this, the Local Highway Authority is satisfied that the site is sustainable in transport terms and is satisfied for the Local Planning Authority to include this transport context in its wider sustainability considerations for the site.

Trip Generation

Following amended trip rates within the 'Response' document, the development is likely to result in 68 two-way vehicular movements in the AM peak hour (08:00 to 09:00), and 69 two-way vehicular movements in the PM peak hour (17:00 to 18:00).

The Local Highway Authority are satisfied the trip rates are robust and that the flow rates have been updated accordingly.

6.8. Leicestershire County Council (LCC) Archaeology

The Leicestershire and Rutland Historic Environment Record (HER) notes that the application site lies within an area of archaeological interest relating to prehistoric and Roman finds and sites recorded within the surrounding landscape.

In addition to the archaeological desk-based assessment and geophysical survey of the site that have been submitted by the Applicant, LCC Archaeology recommends that a programme for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary, by intrusive and non-intrusive investigation and recording. It is also advised that the Applicant must obtain a suitable Written Scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the Local Planning Authority. These recommendations are secured via planning condition.

LCC Drainage (Local Lead Flood Authority (LLFA))

No response to date.

6.9. LCC Ecology

LCC Ecology advises that the ecology surveys and reports that have been submitted as part of this application are sufficient for the proposed works.

LCC Ecology requests that the recommendations for the protection of protected species such as badgers, commuting and foraging bats, and nesting birds within the Applicant's Ecological Appraisal should be secured via pre-commencement planning conditions. However, given the presence of great crested newts within close proximity to the site, an additional condition is requested relating to the provision of Reasonable Avoidance Measures Method Statement (RAMMS), which sets out the measures that will need to be adhered to during the construction phase to ensure that no impacts occur upon terrestrial newt populations. The RAMMS should also apply to the potential for reptiles to be present in such habitats and relate to badgers across the entirety of the site.

At Reserved Matters stage, LCC Ecology requires that the Biodiversity Net Gain Metric 3.1 continues to be refined as the design developments. As such, LCC Ecology anticipates that at Reserved Matters:

- i.) The Metric 3.1 is updated to reflect the final detailed design and layout.
- ii.) Consideration is given to refining the current estimated allowance for developed land. This needs to be updated to ensure overall feasibility of achieving biodiversity net gain on site.
- iii.) If, as a result of the future design proposals, on-site biodiversity net gain cannot be achieved then proposals for off-site enhancements should be incorporated within the Metric 3.1.
- iv.) A 30-Year Landscape and Ecological Management Plan (LEMP) should be submitted in support of the landscape proposals (on and/or off-site) to demonstrate how biodiversity net gain will be achieved.

6.10. LCC Planning Obligations

The following contributions totalling £924,678.70 are required as a result of this development. These contributions include:

- Early Years Education (Desford Community Primary School) (£75,709.50)
- Libraries (Desford Library) (£3,019.77)

- Primary Education (Desford Community Primary School) (£422,188.00)
- Second Education (11 – 18) (Bosworth Academy) (£362,360.00)
- Secondary SEND Education (Dorothy Goodman School Hinckley) (£56,448.43)
- Waste (Barwell (RHWS)) (£4,953.00)

The request for planning obligations has regard to Paragraph 57 of the NPPF, which states that planning obligations must only be sought where they meet the three tests. The County Council's approach to requesting developer contributions as part of the planning application process is set out in its Planning Obligations Policy (July 2019).

6.11. **LCC Tree Officer**

No comments to either support or oppose the application.

6.12. **Hinckley Area Committee**

No response to date.

6.13. **Hinckley & Bosworth Borough Council (HBBC) Affordable Housing**

As the site lies in a rural area, the affordable housing requirement is 40%, which should be split between 75% social rented, and 25% intermediate tenure. Given that the planning application is for a development of 100 dwellings, this means that 40 properties are required to be available for affordable housing.

To comply with National Guidance, such as the National Planning Policy Framework (NPPF), and the First Homes Initiative, the development should provide:

- 10 x First Homes
- 21 x Affordable Rent
- 9 x Shared Ownership

This provision is considered to satisfy the requirements of the NPPF that requires 25% of all affordable housing to be provided as First Homes, and 10% of all dwellings to be for the provision of affordable home ownership.

The preference for affordable rented dwellings in Desford is suggested to be a mixture of:

- 06 x one-bedroom, two-person maisonettes or quarter houses.
- 10 x two-bedroom, four person dwellings.
- 5 x three-bedroom, five person properties.

Affordable housing ownership properties are recommended to be a mixture of two-and-three-bedroom houses. These properties should meet Nationally Described Space Standards.

As this site is in the rural area, any Section 106 (s106) Agreement should include a cascade priority requirement to people with a local connection to Desford in the first instance, then to people with a connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection.

The Council is following National Guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections, or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values.

6.14. **HBBC Arboricultural Officer**

No response to date.

6.15. HBBC Compliance and Monitoring

The Council's Compliance and Monitoring Officer has noted within the Illustrative Masterplan that public open space is proposed on-site. As on-site provision, the development should provide a contribution of £100,246.80 to open space and £171,184.00 for its maintenance. Alternatively, off-site provision contributions totalling £124,066.00 and maintenance contributions totalling £85,592.00 are required. These calculations are based upon the development's maximum provision for up to 100 dwellings and will be confirmed at Reserved Matters upon the confirmation of the total number of residential units has been provided. This public open space should be secured via S106 Agreement, and off-site contributions are welcomed where on-site provision cannot be fully provided.

It has also been recommended that the development creates a pedestrian access between the site's public open space and the public open space at Bluebell Green. In addition, knee rail fencing should be located on open space edges to avoid off-road parking in these areas. It has been advised that the Locally Equipped Area for Play (LEAP) should be enclosed, and bins and benches should be provided across the site.

6.16. HBBC Drainage

No objections to the scheme, subject to three pre-commencement planning conditions in relation to a scheme for a sustainable surface water system; details in relation to the management of surface water on site during the construction of the development; and details in relation to the long-term maintenance of the sustainable water drainage system.

6.17. HBBC Environmental Health

The Council's Pollution Officer requested clarity over why the Phase 1 Report does not recommend intrusive investigation into potential contamination associated with agricultural uses, such as pesticides and herbicides.

The Applicant did not provide any justification for the absence of this recommendation, and therefore a land contamination condition is required.

Planning conditions are requested in relation to contaminated land, a Construction Environmental Management Plan (CEMP), and limitations to the site preparation and construction hours.

6.18. HBBC Green Spaces

No response to date.

6.19. HBBC Waste Management

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 two bins per property at one time).

To ensure this a planning condition to ensure that a scheme makes adequate provision for waste and recycling storage of containers and collection across the site.

7. Policy

7.1. Core Strategy (2009):

- Policy 7: Key Rural Centres

- Policy 8: Key Rural Centres Relating to Leicester
 - Policy 14: Rural Areas: Transport
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 19: Green Space and Play Provision
 - Policy 20: Green Infrastructure
- 7.2. Site Allocations and Development Management Policies DPD (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM9: Safeguarding Natural and Semi-Natural Open Spaces
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. Desford Neighbourhood Plan (2018 – 2036) (2021):
- Policy H1: Settlement Boundary
 - Policy H3: Reserve Sites
 - Policy H4: Affordable Housing
 - Policy H5: Housing Mix
 - Policy H7: Housing Design
 - Policy T1: Traffic Management
 - Policy T3: Electric Vehicles
- 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)
 - Leicestershire Highway Design Guide (LHDG) (2022)
 - Landscape Character Assessment (2017)
 - Landscape Sensitivity Study (2017)
 - The Green Infrastructure Strategy (2020)
 - Open Space and Recreation Study (2016)
 - Heritage Strategy (2020)
 - Housing Needs Study (2019)
 - Affordable Housing SPD (2011)
- 8. Appraisal**
- 8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited. Nonetheless, the following represent the key issues:
- Principle of Development
 - Housing Land Supply
 - Housing Mix and Supply
 - Impact upon Highway Safety

- Impact on the Character and Appearance of the Area
- Impact on Heritage Assets
- Design and Layout
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Archaeology
- Trees
- S106 Heads of Terms
- Conclusions and Planning Balance

Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise, and that the NPPF is a material planning consideration in planning decisions.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted 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. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.4. 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.
- 8.5. Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.6. Policy 7 of the adopted Core Strategy states that the Council will support housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policies 15 and 16 of the adopted Core Strategy.
- 8.7. In spite of this, the development is considered to be outside of the identified settlement boundary of Desford, in the designated open countryside, which is contrary to Policies 7 and 8 of the adopted Core Strategy.
- 8.8. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 174(b) specifically highlights that this should be achieved by, "Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services."

- 8.9 Policy H1 of the Desford Neighbourhood Plan (DNP) states that land outside the defined settlement boundary will be treated as open countryside, where development will be carefully controlled in line with local and national strategic policies.
- 8.10 Outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for development. This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.11 However, it is acknowledged that, through its intentions to implement the Core Strategy through its approach to the countryside and settlement boundaries, Policy DM4 is considered out-of-date. Nevertheless, the emphasis of Policy DM4 is to promote sustainable development proposals within the countryside and to safeguard it from unsustainable schemes. In this regard, Policy DM4 is consistent with, and accords with, the NPPF, and therefore it is afforded significant weight within the planning balance.
- 8.12 Importantly, Policy DM4 also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.13 Ultimately, the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4 of the SADMP, but this does not mean that the development is not sustainable.
- 8.14 On the contrary, it is noted that the application site is identified as a reserve site for housing within Figure 4 and Policy H3 of the DNP. Given the fact that the DNP is less than five years old, the Neighbourhood Plan is considered to be in date, and offered substantial weight in the planning balance.
- 8.15 Within Paragraph 40 of the Examiner’s Report of the draft DNDP, the Inspector discusses both reserve sites and asserts that:

“Each [reserve site] is a relatively flat site in single ownership on the edge of Desford within a reasonable distance of facilities. Neither would have access problems, and neither is the sort of site that has features that rule it out of consideration or make it an absolute last resort. Each would be deliverable, and neither would be subject to constraints that prevented delivery of affordable housing. Neither would have a significant effect on the Botcheston Bog Site of Specific Scientific Interest (SSSI). There would be some limited localised landscape harm in each case.”

- 8.16 It is acknowledged that the application site is located close to the settlement boundary of Desford, and to other residential properties along Gables Close, Lockymeard Drive, and Shericles Way to the east and south of the site. Therefore, the application site is not considered to be in an isolated location.
- 8.17 The Settlement Hierarchy Review Paper (2021) outlines the broad range of services and facilities that the settlement provides, such as key primary facilities like a primary school, a secondary school, a GP surgery, convenience stores, a community hall, and employment areas. Desford also offers a broad range of secondary facilities including a library, pub, takeaways, dentist, and pharmacy. Bus services also provide access to Market Bosworth, Newbold Verdon, and Leicester. The nearest bus stop to the application site is 110m east of the site and it is serviced by the Arriva 153 Bus Service.
- 8.18 It is also acknowledged that the application site is within walking distance/catchment of the Local Centre and Community Facilities, including the St. Martin's Drive Neighbourhood Centre, which is approximately 400m from the site. Educational facilities such as Desford Community Primary School and Bosworth Academy are 850m and 1.4km from the site respectively. Medical services such as Desford Medical Centre and Desford Pharmacy are also both 750m from the application site. Furthermore, existing open space, recreation and sports facilities are located adjacent to the application site including Hunts Lane Allotments and Hunts Lane Cemetery, and Bluebell Green Play Park is only 600m from the application site.
- 8.19 Therefore, Desford meets the definition of a Key Rural Centre, and due to its proximity to the settlement and the services and facilities within it, it is considered that the application site is in a sustainable location in transport terms where future occupiers can meet most of their day-to-day needs without being dependent on private motorised transport. Given the above, the development complies with Policy DM17 of the SADMP.
- 8.20 However, Paragraph 43 of the Examiner's Report also suggests that:
- "The Hunts Lane site would have greater impact on views and detract from the experience of those using the public footpath."*
- In spite of this, the Inspector also stated that:
- "This impact on views does not relate to one of the important views identified on Figure 12 and could be mitigated by planting."*
- It is also noted that the Inspector's assessment of the reserve site within Paragraph 42 was for a development with a capacity of, *"Approximately 62 three-bedroom houses."*
- 8.21 To summarise, the application site is adjacent to, but outside of, the identified settlement boundary of Desford in the designated open countryside. The proposal is offered no support from Policy DM4 of the SADMP, and as such, the application does not accord with the Development Plan. Nevertheless, the application site is an identified reserve site for housing within the DNP, and, in line with the Examiner's Report for the draft DNP, the Council considers the application site to demonstrate adequate transport sustainability. Therefore, it is considered that the principle of the development is subject to the assessment of all other material considerations.

- 8.22 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.
- 8.23 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.24 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), the Council are able to demonstrate 4.89 years of deliverable housing as of 01 April 2022. The position as of 1 April 2023 is still being calculated and is not yet available.
- 8.25 In addition, both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.26 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.27 Paragraph 11 (d) of the NPPF requires planning permission to be granted 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.
- 8.28 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs, and Paragraph 79 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 8.29 Policy 8 of the adopted Core Strategy allocates land for the development of a minimum of 110 new homes within Desford. The application site is identified within Policy H3 of the DNP as a reserve site for housing.
- 8.30 Policy H3 of the DNP states that planning applications for residential on one or both of the identified reserve sites will be supported, to the extent necessary, by the replacement Local Plan. In the event that no replacement Local Plan is in place by 31 December 2022, the matter should be determined on the evidence available at the time.
- 8.31 No replacement Local Plan has been adopted and therefore, in accordance with Policy H3 of the DNP, the application should be determined on the evidence available

at the time. It is acknowledged that an outline application, 22/01227/OUT, for up to 120 dwellings at the other reserve site for housing that is identified within Policy H3 of the DNP was refused in December 2022. The development is currently awaiting an appeal decision.

- 8.32 The DNP utilises a guide figure that demonstrates that a minimum of 163 dwellings are required to be accommodated within the DNP plan period up to 2036. It is noted that the guide figure does not have a limit on the provision of residential dwellings that exceed this figure. In addition, the housing allocation within Policy H2 of the DNP only accommodates up to 80 residential dwellings, which is significantly lower than the Neighbourhood Development Plan's guide figure of 136. Whilst some of this provision will be achieved by windfall sites in accordance with Policy H6 of the DNP, as stated previously, this guide figure is only a minimum, and there is no maximum to the number of dwellings that can be provided within the area.
- 8.33 The scheme provides up to 100 dwellings, and a policy-compliant proportion of which is to be Affordable Housing. This is considered to provide a significant benefit to the housing land supply within the Borough. Additionally, the development can provide almost all the current required net housing need for the Desford Neighbourhood Plan Area up to 2036. Given the above and in light of the Council's failure to deliver a five-year supply of housing land and the need for affordable homes in the district, it is considered that significant weight should be given to the provision of the proposed dwellings.
- Housing Mix and Supply
- 8.34 Policy 16 of the Core Strategy requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon Table 3 in the Core Strategy, and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.
- 8.35 Paragraph 62 of the NPPF states that the size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus Policy 16 is considered up to date in this regard.
- 8.36 The final number and mix of dwellings will be determined at Reserved Matters stage, but the illustrative layout shows that a mix of types and sizes can be accommodated. The development is for up to 100 dwellings and the appropriate layout and density will be determined at Reserved Matters stage. However, the Applicant suggests that the scheme provides a density of 35 dwelling per hectare, which is in accordance with Policy 16 of the adopted Core Strategy.
- 8.37 The Good Design Guide SPD advocates the use of the Building for Life Assessment; however, it is noted that the Building for a Healthy Life Assessment has since replaced this assessment.
- 8.38 Nevertheless, the Applicant has undertaken a Building for Life Assessment, and they have concluded that their development results in 12 green light ratings. However, as this planning application only seeks permission for the scheme's access, only the first three factors are applicable to this scheme, and the rest are subject to further details within the Reserved Matters Stage.

- 8.39 Policy 15 of the Core Strategy sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.40 The Council's Affordable Housing Officer has requested 40% of units on the site to be affordable, with a mix of 75% of those to be social or affordable rented and 25% intermediate tenure/shared ownership. This is in accordance with Policy H4 of the DNP, which requires 40% of all residential developments of 10 units or more to be affordable housing provision.
- 8.41 Given that the planning application is for a development of 100 dwellings, this means that 40 properties are required to be available for affordable housing. The Council's Affordable Housing Officer has advised that, in line with National Guidance, the development should provide ten First Homes, 21 affordable rent units, and nine shared ownership properties. As this site is in the rural area, the Section 106 Agreement requires a connection to the Borough as set out in the Council's Housing Allocations Policy.
- 8.42 The preferred mix of property types for rent should consist of six one-and-two-bedroom, two-person maisonettes or quarter houses; ten two-bedroom, four-person dwellings, and five three-bedroom, five-person properties. These dwellings should all meet the Nationally Described Space Standards.
- 8.43 The Applicant has indicated that the site can provide the policy-compliant requirement of 40 affordable homes. However, the specific type of affordable housing within this provision will be confirmed at the Reserved Matters Stage. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.
- 8.44 Impact upon Highway Safety
Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF 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.
- 8.45 Policy 14 of the adopted Core Strategy requires developments to support accessibility within rural areas by:
- Supporting the delivery of a viable, high quality public transport network between the Key Rural Centres and their nearest urban centre and between the Rural Villages and their nearest Key Rural Centre or urban centre.
 - Supporting the provision of accessible transport services for mobility impaired and rurally isolated residents.
 - Delivering safe cycle paths as detailed in the Hinckley & Bosworth Council's Rural Parishes Cycling Network Plan. This will deliver safe routes to school, to

residential and employment areas, Key Rural Centres/urban areas, community, and leisure facilities and into the countryside.

Developers will be required to contribute towards these initiatives through developer contributions and/or land where they meet the tests set out in National Guidance. New development that would prejudice their implementation will not be permitted.

- 8.46 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)).
- 8.47 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.48 This is supported by Policy T1 of the DNP, which states that housing and commercial development must:
- (a) Be designed to minimise additional traffic generation and movement through the villages.
 - (b) Incorporate sufficient off-road parking in line with housing policy H6.
 - (c) Not remove or compromise the use of any existing off-road parking areas unless a suitable equivalent is provided.
 - (d) Provide any necessary improvements to the site access, communal parking and the highway network either directly or by financial contribution.
 - (e) Consider, where appropriate, the improvement, and where possible the creation of, footpaths and cycleways to key village services.
- 8.49 Policy DM10(g) of the SADMP states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible. This is reinforced by Policy T3 of the DNP, which requires housing developments, where appropriate, to provide 7KW cabling to the most practical points to facilitate subsequent installation of electric vehicle charging points.
- 8.50 No charging points for electric or low emissions vehicles have been included at this stage, but this can be conditioned at the Reserved Matters phase of the development.
- 8.51 Highway concerns have been raised by many residents and Desford Parish Council in relation to increased congestion and traffic issues.

Highway Safety

- 8.52 The Local Highway Authority (LHA) advised that the impacts of the development on highway safety are not considered to be unacceptable, and when considered cumulatively with other developments, the impacts on the road network are not severe, subject to planning conditions and obligations. This is supported by the Applicant's Personal Injury Collision (PIC) analysis, which was accepted by the LHA, which concluded that there does not appear to be any existing road safety issues in the vicinity of the site.

Internal Layout

- 8.53 The internal layout of the development is not for consideration at this stage.

Junction Capacity Assessments

- 8.54 The Applicant has undertaken capacity assessments at the following junctions:
1. Hunts Lane / Site Access proposed priority-controlled 'T' Junction.
 2. Hunts Lane / Newbold Road / Lockeymead Drive Roundabout.
 3. High Street / Manor Road / Main Street Roundabout.
- 8.55 As the Automatic Travel Count (ATC) survey was undertaken by the Applicant between Monday 31 October 2022 and Sunday 06 November 2022, the Local Highway Authority do not require COVID-19 uplift factors for these surveys due to the date that they were undertaken.
- 8.56 As a result, the Local Highway are satisfied that the Site Access and Hunts Lane / Newbold Road / Lockey Mead Drive Roundabout can operate within their practical limits of capacity. The Local Highway Authority are also satisfied that that the applied growth factors within Section 5.1 of the Applicant's Transport Assessment are acceptable.
- 8.57 Further to the Local Highway Authority's previous observations, the Applicant modelled the proposed development's impact on the 'Desford Crossroads', which is junction connecting the A47 Hinckley Road, B582 Leicester Lane and B582 Desford Road using the Local Highway Authority's LINSIG model. The capacity assessment results indicate that this junction will operate above capacity in 2028 prior to the addition of committed development traffic and traffic associated with the proposed development. The Applicant has further compared the 2028 background and committed development traffic with the proposed development traffic and has calculated that the proposed development results in an, "Almost 0%," increase in traffic in both the AM and PM peaks.
- 8.58 In addition, following the submission of Junction 9 model files within Appendix D of the Applicant's Highway Consultation Response from 03 July 2023, which included HGV percentages in the Vehicle Mix matrix and the amended results shown in Table 1 of the main report, the Local Highway Authority are satisfied that the High Street / Manor Road / Main Street Junction can operate within the practical limit of capacity in all scenarios.
- 8.59 Moreover, concerning the Leicester Lane / Barns Way Junction, the LHA is satisfied that the Leicester Lane/ Barns Way Junction has been modelled in a consistent manner with the 'Ashfield Farm' application and that this Junction is likely to operate within the practical limit of capacity in all scenarios.
- 8.60 Notwithstanding this, to mitigate the cumulative impact of development traffic in the local area, the Applicant is required to make a fair and reasonable Section 106 contribution to the highway works at the Desford Crossroads, which will replace the current signal crossroads with a four-arm roundabout.

Off-Site Implications

- 8.61 The development widens the existing footway on Hunts Lane to 2m, which ties in to an existing 2m-wide section of existing footpath that is 62m to the east of the access. This is considered to be in accordance with Table DG9 of Part 3 of the LHDG.

Public Rights of Way (PRoW)

- 8.62 The Local Highway Authority has no objections to the development proposal's impact on Public Right of Way (PRoW) Footpath R95, at this stage, subject to conditions.

Site Access

- 8.63 The access to the site is proposed via Hunts Lane, which has recorded 85th percentile vehicle speeds of 38.9mph in an eastbound direction and 42mph in a westbound direction. The site's access has a carriageway width of 6.75m, a kerbed radii of 6m, and 2m width footpaths on either side of it. This carriageway width is greater than the 5.5m required by Table DG1 of Part 3 of the Leicestershire Highway Design Guide (LHDG). The Applicant suggests that this has been proposed in order to futureproof the site for potential development.
- 8.64 The Local Highway Authority is satisfied that vehicular visibility splays of 2.4 metres by 120 metres can be provided in both directions at this site access, which is in accordance with Table DG4 of Part 3 of the LHDG.
- 8.65 No vertical visibility splay drawings have been submitted in support of this application as the Applicant has contended that the change in gradient on Hunts Lane is approximately 140m west of the proposed site access, which is beyond the required 2.4m x 120m visibility splay. After further assessment work, the Local Highway Authority are satisfied that gradient changes would not affect the required vehicular visibility splays, and that the splays are in accordance with Figure DG2 of Part 3 of the LHDG.

Transport Sustainability

- 8.66 Table 2 within the Applicant's Transport Assessment indicates that food and grocery store, medical centre and play park are located within 800m of the application site, which is in accordance with Paragraph 1.38 of Part 1 of the Leicestershire Highway Design Guide (LHDG). In addition, Table 2 suggests that café, primary school, pharmacy, secondary school, and day nursery are located within 1.2km of the application site. The Transport Assessment also suggests that the application site is within 800m of bus stops with minimum hourly services to Leicester and Market Bosworth.
- 8.67 However, the site is not within 5km of the Principle Urban Area of Leicester or a Sub Regional Centre and, as such, is not fully in accordance with Paragraph 1.38 of Part 1 of the LHDG. Notwithstanding this, the Local Highway Authority is satisfied that the site is sustainable in transport terms in accordance with Policy DM17 of the SADMP, subject to financial contributions for the provision of travel packs and bus passes for each dwelling to encourage future occupants to travel sustainably.

Trip Generation

- 8.68 Following amended trip rates within the first 'Response' document, the development is likely to result in 68 two-way vehicular movements in the AM peak hour (08:00 to 09:00), and 69 two-way vehicular movements in the PM peak hour (17:00 to 18:00). The Local Highway Authority are satisfied the trip rates are robust and that the flow rates have been updated accordingly.

Summary

- 8.69 The LHA has recommended four planning conditions in relation to a construction traffic management plan, a travel plan, off-site works, and access arrangements. Furthermore, the LHA have requested two financial contributions:
- £1,551,088.81 towards improvements to the A47 / B582 Desford Road Desford Crossroads) Junction
 - One travel pack per dwelling (which can be supplied by LCC at £52.85 per pack).
 - Two six-month bus passes per dwelling (which can be supplied by LCC at £360 per pass).

- 8.70 With support from the planning conditions and financial contributions that are required, the effects of the proposed development in relation its access and impact upon highway safety and the road network are not considered to be unacceptable, nor severe. Therefore, in accordance with Paragraph 111 of the NPPF, the development is considered acceptable in relation to highways grounds.

Impact on the Character and Appearance of the Area

- 8.71 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
 - ii.) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii.) It does not create or exacerbate ribbon development.
 - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.72 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.73 The existing site is bounded by broken hedgerow and tree planting on all edges except for a section to the southwest of the site. The landscape of the application site is not considered to be particularly distinctive or noteworthy and it does not contain any rare or unusual landscape features or have any cultural associations. Due to its location, its use as an agricultural field, and its screening from the public highway, the site is considered to make a limited contribution in terms of the wider landscape character area.
- 8.74 Although the site does not comprise a valued landscape for the purposes of Paragraph 174(a) of the NPPF, it is evident that the site is valued by local residents as part of public recreational route from the village to the countryside, which also links Desford to Newbold Verdon. Therefore, it is considered that the site makes a moderate positive contribution to the character and appearance of the countryside.
- 8.75 Ultimately, the development is considered to result in a change of character to the site through the introduction of built form into an area of currently undeveloped agricultural land, and the changing of levels to accommodate the residential properties. This is confirmed by the Applicant's Landscape and Visual Appraisal, which asserts that the development results in a moderate adverse effect on the site's landscape and immediate surroundings. Notwithstanding this, it is important to note that the Desford Neighbourhood Plan Examiner's Report stated that the application

site was considered to be developable with only, *“Some limited localised landscape harm.”*

- 8.76 This can be seen by the fact that whilst a selection of hedgerow is removed from the northern site boundary to facilitate the widening of the site access, the existing boundary planting is retained and additional hedgerow and tree planting is provided throughout the site, which is secured via planning condition. The Applicant’s Landscape and Visual Appraisal also states within Paragraph 5.5 that,

“All of the landscape areas and public open space features will be managed and maintained. This would be achieved through the implementation of a comprehensive Landscape Management Plan.”

This is secured via planning condition.

- 8.77 Furthermore, the residential development within the scheme is set back from the highway by 40m, which is considered to limit its visual impact from Hunts Lane. Therefore, it is considered that the scheme is unlikely to be visually prominent or have a significant adverse effect on the character of the Desford or the countryside from views within the settlement boundary of Desford along Hunts Lane heading westbound. In addition, the views of the site whilst departing westbound from Desford along Hunts Lane are likely to be experienced minimally whilst driving, and within the context of the existing relatively new residential development that has recently redefined the identified western settlement boundary of this Key Rural Centre. Given the above, it is considered that the slight extension to views of residential development and to the settlement boundary from this view do not result in significant adverse harm to the character of the surrounding area.

- 8.78 In spite of this, the development is also likely to be highly visible from the rear elevations and gardens of certain residential properties to the east and south such as Gables Close, and Shericles Way, which may result in adverse effects in terms of their private views. Nevertheless, the impacts of the development upon residential amenity are assessed further later within this report.

- 8.79 On the other side of the site, it is considered that the views of the application site are likely to be experienced fleetingly via vehicles heading in an eastbound direction. Given the location of the site, its screening, and the set back of the residential development, this is not considered to result in significant adverse harm to the character of the countryside. In addition, although Lockeymead Farm and the Hunts Lane Allotments are less isolated as a consequence of this development, they still remain characterised as separated and individual units that are on the edge of Desford’s settlement boundary. Therefore, it is considered that their character is not adversely impacted by the development.

- 8.80 The Landscape and Visual Appraisal states that a 15m wide landscape buffer is created along the western boundary of the site. This ensures the retention of the Public Right of Way, the creation of a green habitat corridor along the western edge, and the softening of the proposed settlement through hedgerow and planting groups and individual trees. This buffer is secured via planning condition. It is also noted that no harm is caused to the Public Right of Way as a result of the development, but this is also secured via planning condition.

- 8.81 In spite of this, the existing views of the residential settlement edge of Desford from the Public Right of Way are at a distance of 103.9m. As this view of the residential properties decreases by almost 75m as a consequence of this development, the

scheme is likely to significantly alter the immediate views from this Public Right of Way. However, these impacts are likely to reduce the further one moves westwards upon the public footpath. Notwithstanding this, the views from the public footpath are already experienced in the context of the Key Rural Centre's settlement edge, which is considered to reduce the development's level of adverse harm to the views from the Public Right of Way.

8.82 In addition, this eastward view from the public footpath has already been significantly changed by the most recent residential development of the properties along Gables Close, Lockyeard Drive, Ashfield Road, Bluebell Green, and Fox Covert. It is noted that these residential properties were only approved via planning permission 12/001125/REM in 2013. Furthermore, the additional residential properties along Shericles Way and Tumblin Fields Close were approved in 2015 via planning permission 14/00816/FUL. As a result of these developments, the settlement boundary has extended over 167m closer towards this public footpath, which would have also resulted in harm to the views that are experienced from this Public Right of Way.

8.83 To summarise, the development results in a change of character to the application site due to the introduction of built form, which is considered to cause significant harm to the site itself. However, the development is well contained and experienced against the context of recent residential development and the Key Rural Centre's settlement edge. By virtue of the indicative layout and siting of the development, alongside additional soft landscaping, and boundary treatment, it is considered that the development is likely to create a limited impact on the wider character of the countryside. Therefore, whilst the development is likely to result in some limited localised harm to the countryside through the urbanisation of an existing arable field, the significance of the landscape effect is likely to be no greater than moderate adverse. Ultimately, this harm is weighed against the benefits of the scheme within the planning balance.

Design and Layout

8.84 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.

8.85 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.

8.86 This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage, however, they will form details at the Reserved Matters stage. Notwithstanding this, the indicative plans illustrate that the development will comprise up to 100 dwellings with access into the site from Hunts Lane.

8.87 It is considered that the illustrative plans provide a reasonable approach to the scheme that will flow through into the detailed plans submitted at Reserved Matters Stage and indicate that a suitable form of development could be brought forward in accordance with Policy DM10 of the SADMP and the Good Design Guide SPD.

Impact upon Residential Amenity

- 8.88 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.
- 8.89 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.
- 8.90 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.
- 8.91 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.
- 8.92 This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage, however, they will form details at the Reserved Matters stage. Notwithstanding this, the indicative plans illustrate that a potential layout for the scheme.
- 8.93 Due to their separation distances from the site, the development is not considered to result in any significant harm to residential amenity to the west of the site. Furthermore, given the absence of residential properties to the north and southwest, the scheme is not considered to result in any material impact to residential amenity in these locations.
- 8.94 The eastern site boundary is separated from the majority of dwelling along Lockeymead Drive by over 35m. In addition, the rear elevation of the majority of dwellings to the northeast of the site, such as along Gables Close are separated by 21.9m from the eastern border of the site. However, the side elevation of one property on Lockeymead Drive is 6m east of the eastern side boundary and the side elevation of a further dwelling on Gables Close is separated from this boundary by only 7m. Nevertheless, given the siting of these two properties, and based on the Applicant's Illustrative Masterplan, it is considered that the development is capable of preventing any loss of privacy, overbearing or loss of light impacts to these adjacent dwellings.
- 8.95 Similarly, the rear elevation of the properties along Shericles Way are over 18m to the south of the application site, but there is also a side elevation of one dwelling along Shericles Way that is 8.6m south of the site. By virtue of the siting and location of these properties and the indicative layout of the development, it is considered that the scheme is capable of preventing any loss of privacy, overbearing or loss of light impacts to these adjacent dwellings.
- 8.96 Ultimately, it is considered that the provision of additional residential dwellings within this application site is not considered to result in significant noise or light pollution that

has a significant adverse impact on the residential amenity of neighbouring properties. However, to mitigate any adverse impacts to neighbouring residential amenity during the construction of the development, the construction hours on the site have been limited, and a construction environmental management plan has been secured via planning condition.

8.97 It is therefore considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable relationship with the nearby residential units. Although concerns raised by the neighbours to the scheme have been taken into account, but it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained to ensure all concerns are appropriately addressed.

8.98 It is considered that the proposed development can be designed as such to be acceptable in amenity terms and in compliance with Policy DM10 of the SADMP, the Good Design Guide, and the requirements of the NPPF.

Flood Risk and Drainage

8.75 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.

8.76 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.

8.77 The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning, which is at low risk of fluvial flooding and predominantly a very low risk of surface water flooding.

8.78 HBBC Drainage consider the development to be acceptable, subject to four planning conditions, which require: a surface water drainage scheme; details in relation to the management of surface water during construction of the development; details in relation to the long-term maintenance of the surface water drainage system; and infiltration testing to be carried out to confirm the suitability of the site for the use of infiltration as a drainage element.

8.79 To conclude, the application site is at low risk from flooding, and therefore it is considered that the flood risks within the site can be suitably mitigated by the planning conditions requested by HBBC Drainage, and therefore, subject to compliance with the requested planning conditions, the development complies with Policy DM7 of the SADMP.

Ecology and Biodiversity

8.80 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.

8.81 LCC Ecology has confirmed that the majority of the site consists of low ecological value habitats, such as arable field The rough grassland field margins and hedgerows are of higher value. But they are retained within the development. The Applicant has

provided a number of Phase 2 Protected Species Surveys that were carried out between 2019 and 2022, which identify the presence of common bat species, a disused outlier badger set, and a single great crested newt in a pond located approximately 150m from the application site. LCC Ecology considered the habitats of interest to be limited to the boundary hedgerows that met the definition of a Habitat of Principal Importance and LLRBAP Habitat Typology.

- 8.82 Nevertheless, to ensure the protection of protected species within the application site, the recommendations within the Applicant's Ecological Appraisal are secured via pre-commencement planning condition. In addition, at the request of LCC Ecology, a further pre-commencement condition is utilised to secure the provision of a Reasonable Avoidance Measures Method Statement (RAMMS), which sets out mitigation measures during the construction of the development that ensures that there is no impact upon the terrestrial newt, reptile, or badger populations.
- 8.83 The Applicants baseline habitats and illustrative on-site design proposals show a +42.02% biodiversity net gain for habitat units and a +4.55% increase in hedgerow units. LCC Ecology consider this demonstrates "no net loss," of biodiversity, which is acceptable in terms of local policy compliance and the principles of biodiversity net gain.
- 8.84 In line with the recommendations of LCC Ecology, the development is considered acceptable with Policy DM6 of the SADMP, subject to conditions.

Trees

- 8.85 Policy DM6 of the SADMP sets out that on site features should be retained, buffered and managed favourably to maintain their ecological Value, connectivity and functionality in the long term.
- 8.86 This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage, however, they will form details at the Reserved Matters stage. Notwithstanding this, the indicative plans illustrate that a section of hedgerow, identified as 'G6' within the Ecological Appraisal, is removed to facilitate the widening of the existing entrance to the site. This hedgerow is considered to be of low arboricultural value due to its overgrown form and limited contribution to the local landscape.
- 8.87 In addition, sections of the hedgerow along the eastern site boundary, which are identified as 'G1' and 'G2' within the Ecological Appraisal, are managed and cut back to facilitate the development of the residential dwellings. It is considered that this hedgerow included Category C trees of low arboricultural and landscape value.
- 8.88 In this instance, the County's Tree Officers has not commented on the proposals and has not expressed any significant concerns with the application.
- 8.89 Therefore, subject to further details at the Reserved Matters stage, it is considered that all trees of moderate to high value can be retained without being impacted upon. As a result, it is considered that, subject to further details at the Reserved Matters stage, the proposal is acceptable regarding the requirements of Policy DM6 of the SADMP.

Other Matters

- 8.90 Due to the size of the site, the loss of this agricultural land is not considered to be significant.

S106 Heads of Terms

- 8.91 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.
- 8.92 Policy 8 of the adopted Core Strategy asserts that the Council will address the existing deficiencies, quantity and accessibility of green space and play provision within Desford.
- 8.93 Policy 19 of the Core Strategy identifies standards for play and open space within the Borough. Developments should accord with this 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 identifies the costs for off-site and on-site contributions.
- 8.94 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:
- A) Necessary to make the development acceptable in planning terms;
 - B) Directly related to the development; and
 - C) Fairly and reasonably related in scale and kind to the development.
- 8.95 The following contributions totalling £2,830,475.31 are sought as a result of this development. These contributions include:
- Early Years Education (Desford Community Primary School) (£75,709.50)
 - Libraries (Desford Library) (£3,019.77)
 - Highways Improvements to the A47 / B582 Desford Road (Desford Crossroads) Junction (£1,551,088.81)
 - On-Site Public Open Space Contribution (£100,246.80)
 - On-Site Public Open Space Maintenance Contribution (£171,184.00)
 - Primary Education (Desford Community Primary School) (£422,188.00)
 - Second Education (11 – 18) (Bosworth Academy) (£362,360.00)
 - Secondary SEND Education (Dorothy Goodman School Hinckley) (£56,448.43)
 - Six-Month Bus Passes, (two per dwelling) (£72,000 (£360 per pass))
 - Travel Packs (one per dwelling) (£5,285 (£52.85 per pack))
 - A Travel Plan Monitoring Fee (£6,000)
 - Waste (Barwell (RHWS)) (£4,953.00)

Monitoring fees will also be required in addition to these contributions.

- 8.96 To comply with National Guidance, such as the National Planning Policy Framework (NPPF), and the First Homes Initiative, the development should provide:
- 10 x First Homes
 - 21 x Affordable Rent
 - 09 x Shared Ownership

This provision is considered to satisfy the requirements of the NPPF that requires 25% of all affordable housing to be provided as First Homes, and 10% of all dwellings to be for the provision of affordable home ownership.

8.97 If public open space provision cannot be provided on-site, off-site provision contributions totalling £124,066.00 and maintenance contributions totalling £85,592.00 are required. These calculations are based upon the development's maximum provision for up to 100 dwellings and will be confirmed at Reserved Matters upon the confirmation of the total number of residential units has been provided. This public open space should be secured via S106 Agreement, and off-site contributions are welcomed where on-site provision cannot be fully provided.

8.98 All of the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. Therefore, subject to the above contributions, the development is considered to comply with Policy DM3 of the SADMP, and Policy 19 of the Core Strategy.

Conclusions and Planning Balance

8.99 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.

8.100 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. The Desford Neighbourhood Plan is now more than two years old and so the provisions of paragraph 14 of the NPPF do not take effect. It is necessary therefore to consider that 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.

8.101 The provision of up to 100 dwellings, which includes the policy compliant number of affordable homes, is considered to be an important benefit of the proposal to which significant weight in favour of the scheme is attached.

8.102 Although the countryside is not considered a sustainable location for new residential development, the proposal is likely to support, and be supported by, local services within the Key Rural Centre. Other benefits of the scheme apart from the delivery of market and affordable homes include the likely economic and social benefits through the construction of the dwellings and from the subsequent activities of the future residents in the local area. These benefits are considered to attract moderate weight in the planning balance.

8.103 The sustainability of the site is also supported by the recommended financial contributions towards travel packs and bus passes for each dwelling. Moreover, the development's impact on the highway network is considered to be mitigated by the proposed financial contributions and planning conditions attached to the development. These considerations add weight to both sides of the argument and are considered to balance each other out.

8.104 Other benefits claimed by the Applicant are considered to simply mitigate the impact of the additional population – e.g. improvements to the pedestrian and cycle network, the provision of open space and equipped play space, S106 contributions. In the absence of evidence to the contrary, no weight in the planning balance is attributed to these factors.

- 8.105 Whilst the proposal is offered no support by Policy DM4(a, b, c, d and e) of the SADMP, the Council does not regard the development to have a significant adverse impact on the intrinsic value, beauty, open character, and landscape character of the countryside, in accordance with Policy DM4(i) of the SADMP. This is by virtue of the location of the application adjacent to the built form of Desford, which enables the development to be experienced as a natural continuation of the Key Rural Centre. This view is supported by the indicative layout and siting of the site, and the retention of the existing boundary landscaping. Nevertheless, the effect on the countryside attracts moderate weight against the development.
- 8.106 Furthermore, whilst the proposal does result in the loss of an area of agricultural land, the development envisages a biodiversity net gain 42.02% for the site through the provision of green infrastructure, and hedgerow and tree planting, which is secured via planning condition.
- 8.107 In relation to residential amenity, it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained by the Council to ensure all concerns are appropriately addressed.
- 8.108 Whilst it is acknowledged that the development is likely to be highly visible from the rear elevations and gardens of adjoining properties to the east and south such as Gables Close, and Shericles Way, given the lack of harm to residential amenity in regard to outlook, light, and privacy, these effects are only given moderate weight.
- 8.109 The application site is at low risk from flooding, and it is considered that the flood risks within the site can be suitably mitigated by the planning conditions requested by HBBC Drainage.
- 8.110 The Applicant's Archaeological Desk-Based Assessment demonstrates that the application site has low/negligible archaeological potential for all periods. However, it is noted that if any remains do survive within the study, they would be of more than local importance. Given the above, and following the recommendations from LCC Archaeology, the development is acceptable subject to a planning condition that secures a programme of archaeological mitigation that is compliant with a Written Scheme of Investigation (WSI).
- 8.111 To summarise, the application must be assessed against the 'tilted' balance of Paragraph 11(d) of the NPPF. The proposed development provides up to 100 dwellings towards the Council's housing land supply, which incorporates 40% affordable housing units in accordance with the requirements of Policies 15 and 16 of the adopted Core Strategy.
- 8.112 By virtue of all these factors, it is considered that the impacts of granting planning permission do not significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the National Planning Policy Framework taken as a whole. Therefore, planning permission should be granted in this instance.

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.

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:

- Planning conditions outlined at the end of this report;
- The entering into of a S106 Agreement relating to affordable housing, highway improvements, open space provision and management and the financial contributions detailed above.
- That the Head of Planning be given powers to determine the final detail of planning conditions.

11.2 Conditions

1. Application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than 18 months 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 commence until details of the layout, scale, appearance, landscaping, and access other than vehicular access (hereafter called the Reserved Matters) have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Site Location Plan – Drg No. 09129-FPCR-ZZ-XX-DR-A-0001 (submitted: 20.01.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. In accordance with the details on Page 16 of the Design & Access Statement (submitted: 20.01.2023), boundary planting will be retained, and all development will be set back by a minimum of 40m from Hunts Lane.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

5. In accordance with the details on Page 28 of the Landscape and Visual Appraisal (submitted: 20.01.2023), a landscape buffer at a minimum width of 15m shall be created on the western boundary of the site.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development shall be carried out in full accordance with the Retention Plan (9129-T-02 Rev C) at Page 18 and the recommendations at Section 7 within the Arboricultural Assessment (submitted: 20.01.2023).

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

7. The development shall be carried out in full accordance with the recommendations within Section 4.0 of the Ecology Appraisal (submitted: 20.01.2023).

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).

8. The Travel Plan shall be carried out in accordance with the details contained within Tetra Tech document reference A114475 Revision 2 (dated 9th December 2022). A Travel Plan Co-ordinator shall be appointed from commencement of development until at least one year after the last dwelling is occupied, or a minimum of five years after the first dwelling is occupied, whichever is later. The Travel Plan Co-ordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.

Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2021).

9. No demolition/development shall take place/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 been submitted to, and approved by, the Local Planning Authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

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

Reason: To advance the understanding of, and safeguard the significance of, the Borough's archaeological assets in a manner proportionate to their importance in accordance with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 205 and Section 16 of the National Planning Policy Framework.

10. 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.

11. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Tetra Tech, drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03 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).

12. No part of the development shall be occupied until such time as the offsite works (footway improvements) shown on Tetra Tech, drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03 have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2021).

13. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to, and agreed in writing by, the Local Planning Authority, which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details, and any

remediation works so approved shall be carried out prior to the site first being occupied.

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

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

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

15. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. 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 minimise disruption to the neighbouring residents in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

16. No development approved by this planning permission shall take place until such time as a surface water drainage scheme in accordance with the Flood Risk Assessment and Outline Drainage strategy dated December 2022 has been submitted to, and approved in writing by, the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation.

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 Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (2021).

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

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with the National Planning Policy Framework (2021).

18. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by, the Local Planning Authority. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance, and protection. Details regarding the protection of any proposed infiltration areas should also be provided. The construction of the development must be carried out in accordance with these approved details.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (2021).

19. Prior to the commencement of the development, details in relation to the long-term maintenance of the surface water drainage system (SuDS) within the development have been submitted to, and approved in writing by, the Local Planning Authority. Details of the SuDS Maintenance Plan should include responsibilities and schedules for routine maintenance, remedial actions, and monitoring of the separate elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the site. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (2021).

20. No development shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the LPA. The LEMP shall include the following details:
- a) Description and evaluation of the features to be created/managed.
 - b) Aims and objectives of management.
 - c) Appropriate management options for achieving aims and objectives.
 - d) Prescriptions for management actions.
 - e) Work schedule.
 - f) Species/seed mixes to be planted/sown.
 - g) Ongoing monitoring and remedial measures.

The approved plan will be implemented in accordance with the approved details.

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

21. No development shall take place until a Reasonable Avoidance Measures Method Statement (RAMMS) is submitted to, and approved in writing by, the Local Planning Authority. The RAMMS should include details including the proposed mitigation measures during the construction of the development that ensures that there is no impact upon the terrestrial newt, reptile, or badger populations. The development shall be carried out as per the 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).

22. Prior to the commencement of development, full details for the provision of electronic communications infrastructure to serve the development, including full fibre broadband connections, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details and the infrastructure must be fully available prior to the occupation of each dwelling/unit on the site.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with Paragraph 112 of the National Planning Policy Framework (2021).

23. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted, or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted, destroyed, or dies during the construction period, a replacement shall be planted at the same place during the first planting season following the completion of the development. The size and species of the tree or hedge shall be agreed in writing by the Local Planning Authority prior to its planting.

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

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

Monday to Friday: 07:30 to 18:00
Saturday: 08:00 to 13:00
No working on Sundays and Bank Holidays

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

25. A landscape management plan, including long term objectives, management responsibilities, and maintenance schedules for all landscape areas, other than

small privately owned, domestic gardens, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as per the approved details.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management policies Development Plan Document (2016).

26. The development hereby permitted shall not be first used until such time as the 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 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 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 Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

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

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

Notes to Applicant:

1. In relation to Conditions 13 and 14, advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.
2. The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Local Planning Authority. To demonstrate that the implementation of this Written Scheme of Investigation has been secured, the Applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the Local Planning Authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the Local Planning Authority.
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 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.

4. 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 contact 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>
5. Any works to highway trees will require separate consent from Leicestershire County Council as Local Highway Authority (telephone 0116 305 0001). Where trees are proposed to be removed, appropriate replacements will be sought at the cost of the Applicant.
6. To erect temporary directional signage, you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
7. 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>
8. If the Applicant wishes for the site's internal roads to be adopted by the Local Highway Authority, the Applicant should note that a commuted sum would be charged for the additional road width that is not required for the safe and satisfactory function of the highway. For further details, the Applicant may wish to consider to the guidance within Table DG1 (General Geometry of Residential Roads (Internal)) within the Leicestershire Highway Design Guide (LHDG).
9. The Applicant should note the following regarding the Section 278 stage:
 - The designer needs to consider contacting and liaising with utility companies and services providers to ascertain if any services require diverting. The proposed footway widening could impact upon existing statutory utilities equipment, and the developer will be required to ensure that liaison with all utilises is undertaken to confirm the details of these works as part of the Section 278 Agreement.
 - The designer needs to provide details of where they intend to drain the proposed development. In addition, the developer is required to survey the existing drainage, and a detailed drainage design and drainage assessment will be required for approval as part of the Section 278 Agreement. The development will also be required to survey the existing drainage, including CCTV, so as to identify suitable drainage to connect to.
 - Section 278 Agreements – Information Required at Preliminary Design Stage [PD1]

https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2017/2/28/PD1_Preliminary_Design_Submission_Checklist.pdf

- Section 278 Agreements – Information Required at Detail Design Stage [DD1]
https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2017/2/28/DD1_Detail_Design_Submission_Checklist.pdf
 - LCC Standard Drawing: The LCC Standard Drawings should be used except where no appropriate detail covers the proposal. It is not necessary to import the drawings into consultants drawing frame, but as a reference.
<https://resources.leicestershire.gov.uk/environment-and-planning/planning/the-6cs-design-guide>
10. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway. Further information and guidance regarding the adequate provision of waste and recycling containers and their storage and collection is available within the Council's Wheeled Bin and Container Policy (2018), which is available on the Council's website. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point and returned to private properties after collection place. Please ensure occupiers are advised procedure and bin collection points.

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Planning Committee 22nd August 2023
Report of the Head of Planning (Development Management)

Planning Ref: 23/00294/CONDIT
Applicant: Ricky Child
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 339 Rugby Road, Burbage

Proposal: Variation of condition 2 and 8 of Planning Application 19/00413/FUL.
Amendments to plans and landscaping



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning application description

2.1. This application seeks amendments to the approved plans, to include a pergola (measuring 2.95m in height, 5.9m in length and 3.5m in depth) and a veranda to the rear (measuring 3m in depth and 3.15m in height), amended landscaping to include access gates (wrought iron) and the relocation of the approved garage (to within 5m of the front boundary to the highway) which is sited forward of the principal elevation. An addition of a chimney stack and associated landscaping is also proposed.

2.2. The following documents were submitted in support of this application;

- Amended Site Access Gates Plan
- Application Form
- Block Plan
- Pergola Plan
- Floor Plans
- Proposed Floor Plans
- Landscaping Plan
- Proposed Elevations

- Materials Document

3. Description of the site and surrounding area

- 3.1. The application site is located in a residential area within the settlement boundary of Burbage on the western side of Rugby Road. The existing dwelling is a detached two storey property which faces onto and is accessed from Rugby Road. The application site lies within a row of individually designed dwellings of varying but predominantly two storey scale set within large plots, a number of which have detached garaging forward of the front elevation. All of the dwellings along the west side of Rugby Road in the vicinity are set back a considerable distance from the highway, many with substantial landscaping to the front boundary.

4. Relevant planning history

21/00632/CONDIT

- Variation of condition 2 (plans) attached to planning permission 19/00413/FUL
- Planning permission
- 20.10.2021

21/00230/DISCON

- Application to re-discharge conditions 3 (materials) attached to planning permission 19/00413/FUL
- Discharged
- 09.03.2021

19/01079/CONDIT

- Removal of condition 9 (removal of permitted development rights) of planning permission 19/00413/FUL
- Refused (Appeal Allowed)
- 18.11.2019

19/00882/DISCON

- Application to discharge conditions 3 and 5 attached to planning permission 19/00413/FUL
- Discharged
- 18.09.2019

19/00413/FUL

- Demolition of existing dwelling and the erection of a replacement detached dwelling and detached double garage (revised scheme)
- Planning permission
- 26.06.2019

18/00122/FUL

- Demolition of existing dwelling and the erection of a detached two storey dwelling and a detached double garage (re-submission).
- Planning permission
- 04.07.2018

14/01160/OUT

- Demolition of Existing Dwelling and Erection of two new dwellings (outline - access only)
- Outline planning approval

- 16.01.2015

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. 4 letters of objection from 4 addresses have been received:
 - Poor quality of the plans.
 - Gates are not set back enough.
 - Gates are not in keeping with the character of the area.
 - Concerns about building gaining an extra storey through a Variation of Condition application, it is felt this should have been for Full Planning Permission.
 - Rear windows are overlooking and should be obscure glazed.
 - Pergola is visually intrusive.
 - Concerns regarding the veranda and its use.
 - Issues raised regarding the materials used, mass and scale of the veranda.

6. Consultation

- 6.1. HBBC Drainage: No objections
- 6.2. HBBC Pollution: No objections
- 6.3. HBBC Waste Management: No objections
- 6.4. LCC Highways: No comments to make
- 6.5. Burbage Parish Council: Objection received based on the quality of the plans received.

7. Policy

- 7.1. Core Strategy (2009)
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
- 7.4. Burbage Neighbourhood Plan
 - Policy 1: Settlement Boundary
 - Policy 2: Design and Layout
- 7.5. Other relevant guidance
 - Good Design Guide (2020)
 - National Design Guide (2019)
 - Leicestershire Highways Design Guide

8. Appraisal

8.1. Key Issues:

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

Design and impact upon the character of the area

- 8.2 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.
- 8.3 Policies 1 and 2 of the Burbage Neighbourhood Plan seek to ensure that development within the settlement boundary is carried out in general accordance with the development plan, alongside this, it seeks to ensure that the design and layout of any proposal is in keeping with the character of the area.
- 8.4 The proposal seeks amendments to the previously approved scheme, including a pergola and veranda to the rear, velux windows, a chimney stack, access gates, re-siting of the approved detached garage and associated landscaping.
- 8.5 It is considered that the pergola, veranda, velux windows and chimney stack would not be highly visible from the street scene to the extent that it would cause any impact upon the character of the area.
- 8.6 The proposed relocation of the detached garage is considered acceptable in terms of any potential impact on the character of the area. Similar detached garage structures can be seen along Rugby Road. The proposed relocation proposes moving the garage closer to the highway, but is considered acceptable and would not cause detrimental impacts upon the character of the area.
- 8.7 The initial proposal from the applicant sought a solid access gates, however, an amended plan has been received indicating that the proposed access gates are to consist of wrought iron, which allows for better visual permeability from the street scene to the house. In addition, similar gates can be seen within the local area and as such are not considered to be of detriment to the character of the area.
- 8.8 Overall, it is considered that the proposed alterations comply with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.9 Policy DM10 of the adopted SADMP and the adopted Good Design Guide require that development would not have a significant adverse effect of the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.
- 8.10 The amendments to the approved plans, including the chimney stack, relocation of the detached garage, veranda and landscaping are not considered to have any impact upon the amenity of neighbouring residents due to their siting, scale and nature.
- 8.11 The proposed pergola, is sited to the rear of the site close to the rear 2m boundary fence and is located more than 8m away from any neighbouring property. The proposed height is 2.9m. Under permitted development the pergola could be erected up to 2.5m in height without the need for formal planning permission. With this fall-back position as a consideration, and when understanding the type of structure the

pergola is, it is considered that this would not cause significant adverse impacts upon the residential amenity of neighbouring properties, by way of loss of light or overbearing impacts.

- 8.12 The proposed velux windows, are centre pivoted and when installed the cill will be 850mm from finished floor level, and are located more than 20m away from the neighbouring properties to the rear. In addition, the windows could be installed under permitted development, given that they are not proposed on an elevation forming the side elevation. Whilst it is acknowledged that the windows face onto the neighbouring properties to the rear, when considering this against the existing first floor rear windows, is not expected to cause additional significant increases to the level of overlooking or loss of privacy to the neighbouring residents. Furthermore, for the above reason it isn't judge to be necessary to require the rooflights to be obscure glazed.
- 8.13 The alterations would therefore be in accordance with Policy DM10 of the adopted SADMP and the adopted Good Design Guide.

Impact upon highway safety

- 8.14 Policies DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.15 The proposed amendments do not reduce the number of approved off-street parking spaces, nor do they increase the requirement for any additional through the provision of additional bedrooms. The proposed access gate and landscaping is to be set back from the highway sufficiently to ensure safe ingress and egress from the site.
- 8.16 No objections or comments were made by Leicestershire County Highways in relation to the proposed amendments. The gates are to be conditioned to be inward opening, and given they are set back 5m from the highway they satisfy the requirements set out within the Leicestershire Highway Design Guide.
- 8.17 It is therefore considered that the proposed access, parking and turning facilities are acceptable and comply with policies DM17 and DM18 of the SADMP.

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 amendments to the approved scheme would not cause any unacceptable harm to the character of the area, residential amenity or vehicle parking standards and is therefore in accordance with Policies DM10, DM17 and DM18 of the SADMP (2016) and advice in the Council's Good Design Guide SPD. Therefore, the proposed amendments to condition 2 and 4 are recommended for approval subject to conditions.

11. Recommendation

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

- Planning conditions outlined at the end of this report.

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

12.4. Conditions and Reasons

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

- Landscaping Plan
- Proposed Floor Plans
- Proposed Elevations
- Proposed Pergola Plan
- Proposed Veranda Plan
- Site Entrance Gate Plan

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).

2. The wrought iron access gates, hereby approved, shall be erected in accordance with the approved 'Site Entrance Gate Plan', and shall be hung to open inwards.

Reason: In the interest of Highway safety and to ensure satisfactory development in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The approved hard and soft landscaping scheme shall be carried out in accordance with the details submitted on Landscaping Plan in the first planting season following the first occupation of the dwelling hereby permitted. 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.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development shall be carried out in accordance with the details of the samples of types and colours of materials used on the external elevations of the dwelling and garage hereby permitted submitted under application 21/00230/DISCON.

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).

5. The development hereby permitted shall be implemented in accordance with the proposed site and floor slab levels submitted on approved Site Levels Drawing Rev C received by the local planning authority on 25 June 2019 attached to application 19/00413/FUL.

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

6. The development shall be carried out in accordance with the detailed scheme of measures for the protection of trees on site and adjacent to the boundaries of the site to be retained during the course of development submitted under application 19/00882/DISCON.

Reason: To ensure that the development has a satisfactory external appearance and protects existing trees to be retained on site in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD (2016).

8. 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 permanently so maintained at all times thereafter.

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 Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

13. Notes to Applicant

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

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PLANNING APPEAL PROGRESS REPORT - Week ending: 11.08.23

WR – WRITTEN PRESENTATIONS

HAS – HOUSEHOLDER APPEAL

IN – INFORMAL HEARING

PI – PUBLIC INQUIRY

File Ref	Case Officer	Application No	Type	Appellant	Development	Appeal Status	Process Dates
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 hard standing (mixed use) (part retrospective)	Start Date Notification Letter Hearing	25.08.22 15.09.23 03.10.23
22/00026/ENF	CZ	21/00203/UNBLDS (PINS:3304677)	IH	Mrs Helen Judges	The Old Cottage Main Street Shackerstone (Unauthorised siting of an outbuilding for use as a dwelling)	Start Date Inquiry	16.08.22 17.10.23
23/000011/ENF	CZ	22/00199/UNBLDS (PINS: 3317487)	IH	Mr S Chaudry	Land North of Lindley Wood Fenn lanes Fenny Drayton (APP/K2420/C/23/3317485 - appeal against Enforcement Notice with regard to the construction of a wall APP/K2420/W/22/3312970 - appeal against refusal of planning permission for retention of the fence subject of this enforcement notice appeal)	Start Date Awaiting Inspector Site Visit	20.03.23
23/00010/PP	CZ	22/00194/UNBLDS (PINS: 3317485)	IH	Mr S Chaudry	Land North of Lindley Wood Fenn lanes Fenny Drayton (APP/K2420/W/22/3312970 - appeal against refusal of planning permission for retention of a fence.)	Start Date Awaiting Inspector Site Visit	20.03.23

23/00014/PP	CB	22/01227/OUT (PINS:3320601)	PI	Davidsons Development LTD	Ashfield Farm, Kirkby Road Desford (Outline planning application for residential dwellings of up to 120 dwellings, all matters reserved, except for access).	Start Date Final Comments Inquiry Letter Event Date	10.05.23 15.08.23 25.08.23 12.09.23
23/00017/PP	MJ EB	21/00502/OUT (PINS:3316829)	IH	Redrow Homes	Land to the Southwest of Lutterworth Road Flanders Close, Burbage (Outline planning application for the erection of up to 80 residential dwellings (Use Class C3), open space provision and associated infrastructure, with all matters reserved except access)	Start Date Hearing	10.05.23 05.09.23
23/00021/PP	LA EB	22/00192/OUT (PINS: 3321670)	IH	Avent Homes	Land at Lychgate Lane Burbage (Outline planning application for the residential development of up to 85 dwellings alongside associated site infrastructure and open space, with all matters reserved except for the means of access.)	Start Date Hearing Letter Hearing	21.06.23 05.09.23 26.09.23
23/00022/PP	TH	21/01305/FUL (PINS:3320919)	IH	AR Cartwright Ltd	Chapel Fields Livery Stables Chapel Lane Witherley (The construction of five detached dwellings, with associated garages, parking provision, access and Landscaping)	Start Date Hearing Letter Hearing	03.04.23 12.08.23 17.10.23
23/00023/PP	SA	22/00776/FUL (PINS:3319400)	WR	Mr & Mrs D Stew- Goddard	Spring Hill Farm Wood Lane Higham on the Hill (Proposed dwelling with associated access)	Start Date Statement of Case Final Comments	12.07.23 16.08.23 30.08.23

23/00024/PP	DS	22/00733/FUL (PINS:3319934)	WR	Adaero Property	314a Station Road Bagworth (Erection of 3 no. 3 bedroom 2 storey dwellings, 1no 6-bedroom HMO, extension to existing bungalow, widening of access driveway.)	Start Date Statement of Case Final Comments	25.07.23 29.08.23 12.09.23
	MI	22/00394/FUL (PINS:3319982)	WR	Mr Ranvir Dhillon	Land Adjacent To 78 Queens Road, Hinckley (Two-storey side extension with part single and part two-storey rear addition, with accommodation in The roof space, to create a 10-bedroom HMO (House in Multiple Occupation) (Sui Generis use class)	Awaiting Start Date	12.04.23
23/00025/PP	TH	22/00058/OUT (PINS:3321137)	WR	Mr M Winter	Winter Cottage Stanton Lane Stanton Under Bardon Markfield (Proposed Dwellinghouse (Outline Application - All Matters Reserved)	Start Date Statement of Case Final Comments	25.07.23 29.08.23 12.09.23
	MI	22/00722/FUL (PINS: 3322413)	WR	Merriwell Properties Ltd	84 Leicester Road Hinckley (Erection of 5 Dormer Bungalows)	Awaiting Start Date	18.05.23
23/00026/PP026/pp	AJ	22/00318/OUT (PINS:3323113)	IH	Richborough Estates and Mr & Mrs Adcock	Land east of Stoke Road and north of Normandy Way (A47) Hinckley (Outline planning application for the erection of up to 475 dwellings, including public open space, land reserved for a primary school together with future expansion land (Use Class F1(a)), drainage, landscaping and associated infrastructure.)	Start Date Statement of C G Hearing Letter Hearing Decision	03.08.23 07.09.23 21.09.23 21.11.23 20.12.23
	SJ	22/01056/FUL (PINS: 3324098)	WR	Mr Terry Taylor	7 Dean Road Hinckley Leicestershire (Proposed 2 storey dwellinghouse and 2 storey detached garage with driveway and landscaping to land south of 7 Dean Road, Hinckley, Leicestershire LE10 1LG)	Awaiting Start Date	14.06.23

	SA	22/01203/FUL	WR	Mr A Smith	2a Clarendon Road Hinckley (Demolition of existing extension and the erection of a new single storey rear extension. Including a replacement roof - raising the ridge height by approx.800mm - and 1no. large dormer window to the rear. Increasing the HMO capacity from 4no. to 8no. (Sui Generis)	Awaiting Start Date	21.07.23	
	MJ	22/00065/FUL (PINS:3326394)	WR	Neptune Planning	Watling Inn 291 Watling Street (Construction of new two-storey hotel block to rear of existing hotel, consisting of an additional 24no.rooms with associated parking area)	Awaiting Start Date	21.07.23	
	SJ	22/00021/FUL (PINS: 3321728)	WR	Mr C Miller	Sheepy Parva Farm Wellsborough Road Sheepy Parva (Erection of stable block and agricultural barn and change of use of land for the keeping of horses)	Awaiting Start Date	09.05.23	
Page 174	22/00028/CLD	CZ	22/00804/CLE (PINS: 3311456)	WR	Mr S Chaudry MAC Developments & Construction Ltd	Land South of Lindley Wood Fenn Lane (Use of land for commercial storage of plant, machinery, and skips)	Awaiting Decision	
	23/00008/PP	DS	22/00725/FUL (PINS:3312970)	WR	Mr S Chaudry MAC Developments & Construction Ltd	Land South of Lindley Wood Fenn Lane (Proposed erection of palisade fencing)	Awaiting Decision	
	23/00015/PP	SJ	22/00916/FUL (PINS:3317828)	WR	Mr and Miss Michael and Leanne Gilders and Carter	12 Rodney Gardens Sheepy Magna (Change of use of agricultural land to domestic garden)	Awaiting Decision	

23/00013/PP	MJ	21/00195/FUL (PINS: 3315336)	WR	Statue Homes Limited	Kyngs Golf and Country Club Station Road Market Bosworth (Erection of 9 holiday cabins with associated parking and landscaping)	Awaiting Decision	
23/00020/FTHPP	SS	22/00989/HOU (PINS: 3312867)	WR	Mr Angelo Carrino	39 Wykin Road Hinckley Leicestershire LE10 0HU (Proposed retention of fence(retrospective)	Awaiting Decision	
23/00016/PP	CB	22/00302/OUT (PINS: 3317284)	WR	Mr J Dawson	Land Northeast of 85 Bagworth Road Nailstone (Outline application for up to 9 dwellings, all matters reserved)	Awaiting Decision	
23/00019/PP	MI	21/00460/OUT (PINS:3316041)	WR	Land Allocation Ltd	Land east of Bagworth Road Barlestone (Outline application for residential development for up to 50 dwellings, including access, with all other matters reserved)	Awaiting Decision	
23/00012/NONDET	TH	22/00167/OUT (PINS: 3317090)	PI	Gladman Developments LTD	Land north of Shenton Lane Market Bosworth (Outline planning application for the erection of up to 125 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access)	Awaiting Decision	
23/000018/PP	SA TH ??	23/00020/CLE (PINS:3320892)	WR	ET Planning	6 Kingfisher Way Sheepy Parva (Use of land as incidental residential garden and commencement of construction of an outbuilding (within the curtilage of the dwellinghouse).	Awaiting Decision	

Decisions Received

22/00004/PP	RW	22/00284/HOU (PINS:3307122)	HAS	Mr & Mrs J. Farn	14 The Hawthorns Markfield (First floor and single storey side, front and rear extensions, and other alterations)	Allowed	02.05.23
23/00003/NONDET	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).	Dismissed	10.05.23
23/00009/PP	SA	22/00447/FUL (PINS: 3314796)	WR	Mr N Noakes	17 Bridge Lane Witherley (Construction of 2 dwellings)	Dismissed	03.07.23