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Hinckley & Bosworth
Borough Council

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

Date: 22 July 2024

To: Members of the Planning Committee

Cllr MJ Crooks (Chair)	Cllr SM 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 REH Flemming	Cllr A Weightman
Cllr C Gibbens	

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, 30 JULY 2024** 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 - 30 JULY 2024

A G E N D A

1. **APOLOGIES AND SUBSTITUTIONS**

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

To confirm the minutes of the meeting held on 4 June 2024.

3. **ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES**

To be advised of any additional items of business which the Chair 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. **20/01225/FUL - LAND WEST OF CLICKERS WAY, EARL SHILTON (Pages 5 - 32)**

Application for a residential development for 81 dwellings with provision of access, open space and associated infrastructure.

8. **24/00488/HOU - KIRKBY OLD PARKS FARM, KIRKBY LANE, NEWBOLD VERDON (Pages 33 - 40)**

Application for two-storey side extension, creation of balcony, demolition and replacement of ancillary outbuilding and construction of a double garage (retrospective).

9. **23/01048/FUL - LAND OFF HALL LANE, ODESTONE (Pages 41 - 56)**

Application for change of use of a building from agricultural to residential and associated works.

10. **23/00711/FUL - THE BLUE BELL INN, 39 HIGH STREET, DESFORD (Pages 57 - 82)**

Change of use from café (class E(b)) and residential (class C3) to convenience foodstore (class E(a)), construction of single-storey side extension, two-storey and

single-storey rear extension (following the demolition of existing single-storey element to rear of 37 High Street / 2A Main Street and store to rear of public house) with associated landscaping and other works.

This item was deferred at a previous meeting, therefore no public speaking will be permitted in accordance with the council's constitution.

11. **24/00476/FUL - 87B AND 87C HIGH STREET, BARWELL (Pages 83 - 92)**

Application for change of use from two dwellinghouses (class C3) to children's care home (class C2).

12. **24/00428/FUL - 552 COVENTRY ROAD, HINCKLEY (Pages 93 - 100)**

Application for change of use of part of the garden (use class C3) to accommodate storage of skips (use class B8).

13. **24/00274/FUL - MANOR VIEW, ASTON FLAMVILLE ROAD, BURBAGE (Pages 101 - 116)**

Application for extensions and alterations of existing ancillary building to form early years day nursery (class E) with associated car parking.

14. **APPEALS PROGRESS (Verbal Report)**

To report on progress relating to various appeals.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

4 JUNE 2024 AT 6.30 PM

PRESENT: Cllr MJ Crooks - Chair

Cllr J Moore – Vice-Chair

Cllr SL Bray, Cllr MA Cook, Cllr REH Flemming, Cllr DT Glenville (for Cllr E Hollick), Cllr CE Green, Cllr L Hodgkins (for Cllr C Gibbens), Cllr KWP Lynch, Cllr LJ Mullaney, Cllr M Simmons (for Cllr CM Allen), Cllr H Smith, Cllr BE Sutton (for Cllr RG Allen), Cllr BR Walker, Cllr A Weightman and Cllr P Williams (for Cllr SM Gibbens)

Also in attendance: Councillor WJ Crooks

Officers in attendance: Emma Baumber, Chris Brown, Tim Hartley and Rebecca Owen

29. **Apologies and substitutions**

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

Councillor Simmons for Councillor C Allen;
Councillor Sutton for Councillor R Allen;
Councillor Hodgkins for Councillor C Gibbens
Councillor Williams for Councillor S Gibbens
Councillor Glenville for Councillor Hollick.

30. **Minutes**

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

RESOLVED – the minutes of the meeting held on 7 May be confirmed as a correct record.

31. **Declarations of interest**

Councillor Cook declared a non-registrable interest in application 24/00263/FUL as the applicant was known to her.

32. **Decisions delegated at previous meeting**

It was noted that all decisions delegated at the previous meeting had been issued, with the exception of 23/00711/FUL and 24/00263/CONDIT which had been deferred and 23/00432/OUT which was subject to a section 106 agreement.

33. **21/01511/OUT - Earl Shilton Sustainable Urban Extension, Mill Lane, Earl Shilton**

Outline application to include up to 1000 dwellings (C3) up to 5.3 hectares for employment uses comprising a mix of B2, B8 and E(g) uses, a primary school / education uses (F1), retain floor space (E) and hot food takeaway (Sui Generis) as part of a mixed use local centre / community hub (E/F1/F2/C3), two vehicular accesses from the A47, limited access from Breach Lane, vehicular access from Mill Lane, public open space including sustainable urban drainage systems and the provision of associated infrastructure and ancillary works and demolition of former girl guide building (outline – access only) (EIA development).

Applications 21/01511/OUT and 23/00330/OUT were presented and debated together but voted on separately.

An objector, the agent and two ward councillors spoke on the two applications.

It was moved by Councillor Bray and seconded by Councillor Lynch that permission be granted as recommended in the officer's report.

Councillor Cook, seconded by Councillor Smith, proposed that the application be deferred to consider the concerns raised. As the second motion, this was not put to the vote.

The motion proposed by Councillor Bray and seconded by Councillor Lynch was put to the vote and CARRIED and it was

RESOLVED – permission be granted subject to:

- (i) A section 106 agreement as set out in the heads of terms in the officer's report;
- (ii) The conditions outlined in the officer's report.

34. **23/00330/OUT - Earl Shilton Sustainable Urban Extension, Mill Lane, Earl Shilton**

Outline application to include up to 500 dwellings, a primary school / education use (class F1), retail (class E), community hub (class E/F1/F2), hot food takeaway (Sui Generis), accesses from Mill Lane and Astley Road and infrastructure including public open space, SUDS, landscaping, the provision of associated infrastructure and ancillary works. Outline – all matters reserved except for access (EIA development).

Applications 21/01511/OUT and 23/00330/OUT were presented and debated together but voted on separately.

An objector, the agent and two ward councillors spoke on the two applications.

It was moved by Councillor Bray and seconded by Councillor Lynch that permission be granted as recommended in the officer's report.

Councillor Cook, seconded by Councillor Smith, proposed that the application be deferred to consider the concerns raised. As the second motion, this was not put to the vote.

The motion proposed by Councillor Bray and seconded by Councillor Lynch was put to the vote and CARRIED and it was

RESOLVED – permission be granted subject to:

- (i) A section 106 agreement as set out in the heads of terms in the officer's report;
- (ii) The conditions outlined in the officer's report.

35. **24/00026/FUL - Kyngs Golf & Country Club, Station Road, Market Bosworth**

Application for erection of two subterranean golf holiday lodges with associated works.

The applicant spoke on this item.

It was moved by Councillor Bray and seconded by Councillor Flemming that permission be granted as recommended in the officer's report.

Councillor Cook, seconded by Councillor Simmons, proposed that the application be refused due to harm to the countryside, amenity of occupiers and failure to complement the character of the surrounding area. As the second motion, this was not put to the vote.

The motion proposed by Councillor Bray and seconded by Councillor Flemming was put to the vote and CARRIED and it was

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

Having declared a non-registrable interest in this following item, Councillor Cook left the meeting at 7.57pm.

36. **24/00322/FUL - The White House, Bosworth Road, Wellsborough**

Application for erection of single storey self-build / custom-build dwelling (resubmission of 23/00923/FUL).

The applicant spoke on this item.

It was moved by Councillor Bray and seconded by Councillor Crooks that the application be deferred for a site visit and to urge the applicant to seek advice from Design Midlands. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – the application be deferred for a site visit and to seek advice from Design Midlands.

Councillor Cook returned to the meeting at 8.20pm.

37. **24/00263/CONDIT - 477A Coventry Road, Hinckley**

Application for variation of condition 2 (approved plans) of application 15/00678/REM (part retrospective).

Notwithstanding the officer's recommendation that permission be granted, members expressed concern about the potential impact on neighbours in particular due to noise. It was moved by Councillor Lynch and seconded by Councillor Bray that permission be refused due to being contrary to policy DM10 of the Site Allocations and Development Management Policies DPD. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – permission be refused by reason of the effect of the garden room on neighbours, in particular as a result of noise.

38. **Appeals progress**

Members were provided with an update on appeals.

(The Meeting closed at 8.35 pm)

CHAIR

Committee Report 30th July 2024
Report of the Head of Planning

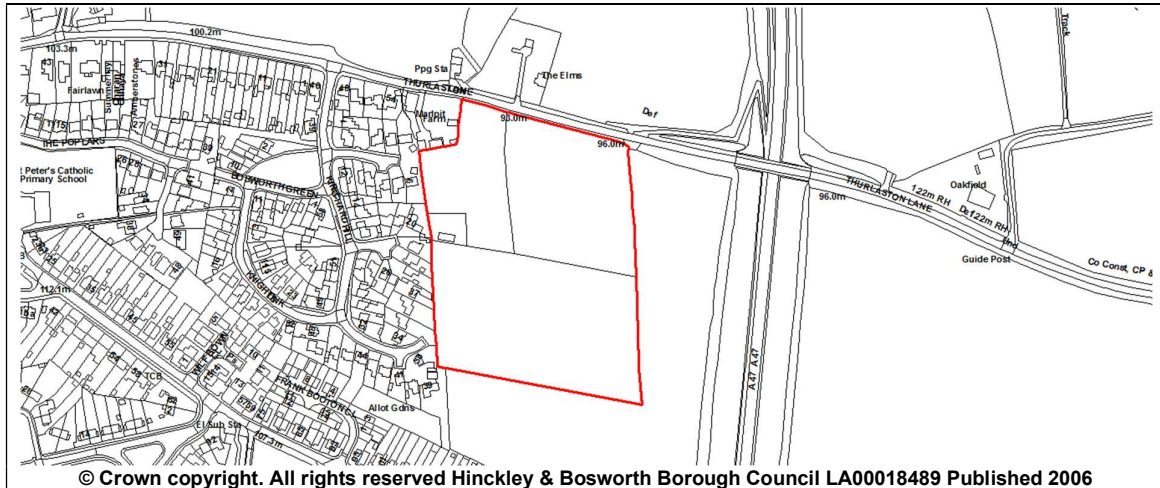
Planning Ref: 20/01225/FUL
Applicant: Persimmon Homes
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land West Of Clickers Way Earl Shilton

Proposal: Residential development for 81 dwellings with provision of access, open space and associated infrastructure



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. This application seeks full planning permission for the erection of 81 new dwellings, of which 16 will be affordable. The scheme comprises 23 No. 2 bed dwellings, 46 No. 3 bed dwellings and 12 No. 4 bed dwellings. The scheme includes terraced, semi-detached and detached two-storey and two-and-a-half-storey dwellings. Twenty percent of the proposed dwellings are to be affordable units for social rent and shared ownership.

2.2. The following reports surveys and documents have been submitted in support of the planning application:

- Planning Statement;
- Statement of Community Involvement;
- Design and Access Statement;
- Transport Statement;
- Travel Plan;
- Drainage Strategy;
- Flood Risk Assessment;
- Ecological Appraisal;

- Reptile Report;
 - Arboricultural Assessment;
 - Scheme of Investigation for Archaeological Excavation; and
 - Phase 1 Geo-Environmental Desk Study.
 - BNG Assessment
- 2.3. Amended plans have been submitted during the course of the application to reduce the scheme from 111 to 81 dwellings. Re-consultation has been undertaken.

3. Description of the site and surrounding area

- 3.1. The application site is currently used for agriculture and falls from a central east-west ridge towards Thurlaston Lane to the north and Mill Lane to the south. Two former agricultural buildings remain on site which are in a derelict state.
- 3.2. There are some hedgerows within the site though these no longer connect to create smaller fields. Hedgerows exist along the boundaries to Mill Lane and Thurlaston Lane. The eastern boundary is also largely defined by hedgerow though some has been replaced by fencing forming the boundary of residential properties on King Richards Hill and Mill Lane. The western boundary is formed by new planting, with Clickers Way beyond, which is in a cutting at this point. Thurlaston Lane crosses Clickers Way by way of a bridge, while Mill Lane now terminates at the bypass with no vehicular connection possible. Pedestrian and cycle connections to the by-pass are possible from both Mill Lane and Thurlaston Lane.

4. Relevant planning history

- 4.1 The Earl Shilton Sustainable Urban Extension site is in multiple land ownerships, which has resulted in three separate applications being submitted.
- 4.2 The applicants involved with two of these applications have been working together to ensure that the SUE is joined up in its strategic planning – the result being application ref 21/01551/OUT, and its sister application ref 23/00330/OUT. For the sake of ease, the applicants have referred to these applications as A and B respectively.
- 4.3 This application, or Application C, was submitted by Persimmon (under reference 20/01225/FUL) and whilst not part of the consortium working together on the wider scheme, is nonetheless being dealt with as part of the wider SUE. Thus, a proportionate share of all infrastructure required for the wider SUE will be attributed to Application C as well. Persimmon have engaged proactively to ensure that they make the necessary contributions and that the schemes can match up in terms of vehicular access and open space, etc.
- 4.4 As set out within the Planning Statement submitted with this application, Application C aims to deliver 81 new dwellings on land to the north of the wider SUE site. It would benefit from vehicular access from Thurlaston Road as a temporary measure, before a southern access point into the wider SUE is opened up. At that point the Thurlaston Road access would be permanently stopped up.
- 4.5 Application A (23/00330/OUT) is submitted on behalf of Barwood Strategic Land LLP. This application proposes up to 500 dwellings, part of the primary school site, open space, and a local centre/community hub. The application is split across two land parcels located north of Mill Lane and to the south and east of Astley Road.

The application is referred to where necessary in this submission to help explain the overall approach.

- 4.6 Application B (21/01511/OUT) is submitted on behalf of Bloor Homes and Jelson. This application proposes up to 1,000 dwellings, up to 5.3 hectares for employment uses, part of the primary school site, open space and a local centre/community hub.
- 4.7 Unlike this application, applications A and B are submitted in outline with all matters other than access reserved for future determination. The applicants have worked together as a Consortium to develop a comprehensive masterplan for the overall SUE.
- 4.8 Application A and Application B, being effectively related to the same scheme, were brought before Committee together – to reflect the fact that each is reliant upon the other in terms of infrastructure requirements, S106 obligations and phasing.

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. There have been 62 letters of objection received from 39 separate households, which have been summarised as follows:
- Increase in traffic and associated congestion / highway safety impacts, particularly on Thurlaston Lane and Church Street;
 - Additional pressure on already insufficient infrastructure, such as schools and medical facilities;
 - Loss of greenfield land and associated informal recreation;
 - Limited sustainable transport opportunities;
 - Lack of demand for new homes in the area;
 - Access should be from Clickers Way as part of the SUE;
 - Impacts on biodiversity resulting from the removal of hedgerows and scrubland; and
 - Impacts on landscape and visual amenity, including overlooking experienced by existing dwellings.
- 5.3. No letters of support or neutral comments have been received.

6. Consultation

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

National Grid/Cadent Gas
HBBC Environmental Services- Drainage
HBBC Environmental Services- Pollution
Waste- Streetscene Services
LCC Archaeology
LCC Drainage
LCC Ecology
LCC Planning Obligations Officer
HBBC Affordable Housing Officer
University Hospitals of Leicester NHS Trust

- 6.2. Objections were initially received from the following consultees, however following the receipt of revised information and further consultation, these have been removed:

LCC Ecology
LCC Drainage

- 6.3. HBBC Monitoring Officer raised the following questions relating to open space provision.
- A. Costings of the proposed play equipment is required
 - B. Details of the equipment required (please let me know if I have missed them but couldn't find them)
 - C. LAP – Definition is a Local Area of Play which doesn't have equipment
 - D. Boundary treatment to the play area/s
 - E. Will need the plans in enterprise to be able to measure Sqm to ensure is sufficient for 81 dwellings
 - F. Hard surfacing details
 - G. Bins / benches and signage

6.4. The applicant responded to these requests with the following information:

- The details are all contained within the 'Detailed Softworks and Play Proposals'
- We can remove this equipment if required, given the amount of accessible green space there is sufficient Localised Areas of Play across the development if the equipment is retained.
- As above the fencing is covered in the notes on the landscaping plan.
- Measurements provided:
 - Equipped Children's Play Space - 396sqm
 - Casual/Informal Play Spaces – 98sqm
 - Outdoor Sports Provision – Financial Contribution to Weavers Springs via s106
 - Accessibility Natural Green Space – 9030.72sqm
- Details are contained in the notes on the landscaping plans
- Details are contained in the notes on the landscaping plans

Officer Comments: It is considered that the proposals meet the needs arising from the development itself, and will contribute towards the wider SUE's impact in terms of sports provision, etc through the S106 Agreement.

6.5. LCC Highways have maintained their objection, making the following comments:

- 02/05/2024 Response:
 1. The Applicant has failed to demonstrate that safe and suitable access for all users would be provided to the development and the proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for highway users contrary to paragraph 110 of the National Planning Policy Framework (2023).
 2. The proposals submitted by the Applicant are prejudicial to the delivery of the proposals identified within the adopted Earl Shilton and Barwell Area Action Plan (AAP). The development proposals do not comply with the Local Plan Policy and are prejudicial to the wider connectivity aspirations of the Earl Shilton SUE for all users, contrary to paragraphs 47, 110 and 112 of the National Planning Policy Framework (2023).
 3. The Applicant has failed to demonstrate any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be mitigated, contrary to paragraph 110 of the National Planning Policy Framework (2023).

- *21/06/2024 Response:*
"I visited this site again earlier in the week and while it is clear that Persimmon have cut back the hedge along their site boundary and a tree which could have been problematic for the footway construction has been removed, the third party hedge alongside Marlpit Farm remains (in the meeting Persimmon suggested it had been replaced by a fence) and the hedgerow alongside the pumping station hasn't been cut back. Both grow to the carriageway edge.

Nevertheless, we have undertaken another high level review of the proposals and we have identified the scheme may be undeliverable within the highway extents. I've attached a couple of standard drawings in respect of footway/ carriageway construction which show that construction of the proposals would require additional width over and above the 1.8m footway and 5.5m carriageway. We would also require a 1.0m service margin either side of the carriageway/ footway (that would include the additional width shown in the standard drawings) to allow for the hedgerow as this could pose a maintenance issue, particularly for the footway.

Ideally we could do with confirmation that a 9.3m corridor could be fully achieved within the extents of the highway and that this would not impact on the third party hedgerows before we could consider the proposals further. This could also mean realignment of the proposed footway/ carriageway."

Officers Comments: These matters are addressed in full below.

7. Policy

7.2. Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 5: Transport Infrastructure in the Sub-regional Centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

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

7.4. Earl Shilton and Barwell Area Action Plan (2006-2026)

- Policy 1: Sustainable Urban Extension (SUE)

- Policy 6: Earl Shilton Urban Extension
- Policy 7: Housing in Earl Shilton Urban Extension
- Policy 10: General Highways provision for Earl Shilton Urban Extension
- Policy 11: Walking and Cycling in Earl Shilton Urban Extension
- Policy 21: Infrastructure and Delivery

7.5. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- Community Infrastructure Levy (CIL) Regulations (2010)

7.6. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highways Design Guide
- Affordable Housing SPD (2011)
- Hinckley and Bosworth Borough Landscape Character Assessment (2017)
- Open Space and Recreation Study (2016)
- Housing Needs Study (2019)

8. Appraisal

8.1. Key Issues

- Principle of development
- Housing mix and affordable housing
- Design and impact upon the character of the area
- Heritage
- Impact upon neighbouring residential amenity
- Impact upon highway safety and parking
- Drainage
- Ecology
- Infrastructure Contributions
- Planning balance

Principle of development

8.2 The National Planning Policy Framework (NPPF) (2023) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, permission should not usually be granted unless other material considerations indicate otherwise.

8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016) (SADMP) and the Earl Shilton and Barwell Area Action Plan (2006-2026).

- 8.4 The Emerging Local Plan for 2020-2039 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 Emerging Local Plan is therefore delayed.
- 8.5 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 Policy 2 of the adopted Core Strategy identifies land to the south of Earl Shilton as the location for the development of a mixed use Sustainable Urban Extension (SUE) of 2000 homes, which is required to support the regeneration of the Barwell and Earl Shilton sub regional centre and seeks to diversify existing housing stock by supporting housing development that provides for a mix of housing types and tenures, as detailed in Policy 15 and Policy 16.
- 8.7 Detailed requirements for the SUE are set out in the Earl Shilton and Barwell Area Action Plan (AAP) Development Plan Document (DPD). Policy 2 of the Core Strategy also states that all development must be in conformity with the AAP and that no piecemeal developments will be permitted. The AAP at paragraph 9.1 states that “The Council considers, in line with Policies 2 and 3 of the Core Strategy, that the best way in which these requirements can be satisfied is for a single outline planning application to be made for each urban extension.”
- 8.8 Relevant to this site is Policy 6 of the Earl Shilton and Barwell AAP which states that ‘development of the urban extension will be required to generally follow the land uses within the Development Framework at Figure 3. “Deviation from the Development Framework will be permitted where proposals would not prejudice the achievement of the overall requirements of the policies in this Area Action Plan and Local Plan (2006-2026) taken as a whole”.
- 8.9 Also relevant is Policy 7 of the Earl Shilton and Barwell AAP which sets out that a minimum of 1600 homes should be accommodated across the entire SUE. The application site would contribute 81 dwellings to the overall target of 1600 homes across the entire area of the SUE.
- 8.10 The application is therefore considered to be acceptable in principle, subject to the detailed matters below.

Housing Land Supply

- 8.11 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.
- 8.12 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. However, at a recent appeal (application ref: 21/01131/OUT, appeal Ref: APP/K2420/W/22/3301735, determined 4 January 2023) the Council signed a Statement of Common Ground which updates the monitoring position. On this basis, the Council have agreed that the 5 year housing land supply currently stands at 4.76 years, as of 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.

- 8.13 Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:

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

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

- 8.14 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 (or a four year supply, if applicable as set out in paragraph 226) of deliverable housing sites (with the a buffer, if applicable as set out in paragraph 77); and does not benefit from the provisions of paragraph 76 or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.”*

- 8.15 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”.*

- 8.16 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.

The provision of up to 81 dwellings, including Affordable Housing, together with the associated education, employment, open space and other infrastructure brought forward as part of the wider SUE, is considered to be a significant social and community benefit of the proposal and weighs heavily in favour of the scheme.

Housing Mix and Affordable housing

- 8.19 The application proposes a mix of two, three and four bedroom dwellings in short terraces, detached and semi-detached form. The table below sets out the type of units, number of each proposed and the percentage this equates to.

Type	No. Proposed	Proposed %
One Bedroom	0	0
Two Bedroom	23	28.4%
Three Bedroom	46	56.8%
Four Bedroom	12	14.8%
TOTAL	81	100%

- 8.20 Policy 15 of the adopted Core Strategy seeks the provision of 20% affordable housing on all sites in sustainable urban extension areas of 15 dwellings or more or 0.5 hectares or more with a tenure split of 75% for social or affordable rent and 25% for intermediate tenure. The proposal comprises the development of 81 residential units. There is therefore a requirement for affordable housing on the site, which would amount to 16.2 dwellings, rounded to 17. Of these 75% should be for rent and 25% for intermediate tenure. The table below sets out type of units, number of each proposed and the percentage this equates to.

Tenure	Type	No. Proposed	% total housing proposed
Social rented	Two bed	6	7.4%
	Three bed	6	7.4%
Intermediate housing	Two bed	2	2.5%
	Three bed	2	2.5%
	TOTAL	16	19.8%

- 8.21 The Borough Council's Affordable Housing Officer (AHO) previously commented that given the sites size and that it contributes a significant number of dwellings for affordable housing, the rented units should provide a cross section of all dwelling types. To maximise the flexibility of the housing, properties should meet Nationally Described Space Standards (NDSS) for the unit type.
- 8.22 The applicant subsequently responded to the AHO comments, stating that the proposed mix seeks to meet the need of local people and take into account the implications relating to delivery. The applicant has also responded to say that there is no policy requirement to meet NDSS for the affordable homes and as such this requirement should not be imposed upon the applicant.
- 8.23 Following a reduction in the overall number of units provided from 108 to 81, the AHO provided an updated response, noting the slight under provision of affordable housing whilst acknowledging the demand for the proposed property types and their ability to achieve NDSS. On balance it is considered that the proposed development has an acceptable mix of house types and sizes which reflects the needs of the district.
- 8.24 In order to create an inclusive development, the Borough Council would not support the grouping of affordable units together as set out in paragraph 6.19 of the Affordable Housing SPD. Affordable properties should be spread throughout the site amongst open market properties in appropriately sized clusters of no more than 6 units. The proposed affordable housing, whilst being grouped together in two broad clusters in close proximity, are indistinguishable in design from the market

houses. Whilst not strictly conforming with the requirements of the Affordable Housing SPD or Policy 15 of the Core Strategy it is considered that, on balance, given the layout and overall design of the development, this arrangement is acceptable.

Design and impact upon the character of the area

- 8.25 Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.26 Policy DM10 of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.27 Policy 16 of the Cre Strategy sets out a requirement for the site to achieve a density of 40 dwelling per hectare (dph). The application site covers an area of 3.3 ha, excluding the areas of open space, the developable area equates to approximately 2.4 hectares. The revised development of 81 dwellings therefore gives a density of approximately 33.75 dph. Whilst slightly lower than the 40 dph stated in Policy 16, it is considered that this density reflects the density of built form found in the adjoining area of Earl Shilton and as such is more appropriate for this site. On balance therefore this is considered an appropriate density which broadly consistent with the aims of Policy 16 and reflects the local context.
- 8.28 The development has been revised during the life of this planning application, but the design principle and house types have remained throughout. The design is reflective of the surrounding area whilst having a distinctive sense of place and a modern feel. A number of plots in prominent location have been designed as feature plots with all corner plots being dual aspect so as to create a strong presence with active frontages in the streetscene to provide interest and natural surveillance.
- 8.29 The site will comprise a mix of 12 different house types ranging between 2 and 2.5 storey. The materials proposed are set out on the materials plan (ref PL-EXT_ES_RPM Rev B). Materials include a mix of two types of brick, render and four types of roof tile in grey and terracotta colours. The variety of house types, roof heights and materials provide interest within the streetscene and help to create a higher quality development.
- 8.30 Landscaping through the property frontages, within the areas of open space and surrounding the sustainable drainage feature, breaks up and softens the proposed built form as well as making a contribution to the sites ecological value.
- 8.31 A Landscape and Visual Impact Assessment (LVIA) has been submitted in support of the proposal. The LVIA notes that the site is not covered by any statutory or non-statutory designation that would prohibit residential development and is not within an area covered by any landscape designation which would increase its landscape value or sensitivity to development. In the short term the LVIA identifies that visual effects are contained in the short term to the immediate vicinity of the site and that the proposal will not result in any adverse landscape effects to the setting of the Burbage Common Rolling Farmland or Stoke Golding Rolling Farmland landscape. In the longer term, once the wider SUE has been developed the site will sit firmly within the context of residential development.

- 8.32 Therefore, given the above, on balance, the design and layout of the development accords with Policy 16 of the Core Strategy, Policy DM10 of the Site Allocations and Development Management Policies DPD and the provisions of the NPPF.

Heritage

- 8.33 Policies DM11 and DM12 of the SADMP seek to ensure heritage and this historic environment are protected, preserved and enhanced. There are a number of listed buildings within Earl Shilton however none are within proximity of the site and as such will be unaffected by the proposal. A Written Scheme of Investigation for archaeological evaluation has been submitted in support of the application. The Borough Council Archaeologist has reviewed this and raised no objections subject to conditions.

- 8.34 The proposal therefore accords with Policies DM1 and D12 of the SADMP and general provision of the NPPF with regard to heritage.

Impact upon neighbouring residential amenity

- 8.35 Policy DM10 of the SADMP requires that the amenities of the occupiers of proposed developments would not be adversely affected by activities within the vicinity of the site.

- 8.36 The application site is bordered to the west by residential properties on King Richards Hill. Plots 59-42 all have rear elevations facing to the west towards King Richards Hill. The interface distances range from approximately 18m to 39.5m and in addition the properties on King Richards Hill are not directly facing the application site but rather are sited at angles to the application site boundary. This would provide suitable separation distances from neighbouring properties to avoid any overlooking or privacy issues.

- 8.37 To the north of the site is Marlpit Farm. An interface distance of 15m is maintained between the side elevation of plot 59 and the farm boundary. The front elevation of plots 64-66 are located approximately 66m from the front elevation of the closest property to the north of Thurlaston Lane. This would provide suitable separation distances from neighbouring properties to avoid any overlooking or privacy issues.

- 8.38 The amended proposal achieves an acceptable level of separation between the proposed properties and shows all the properties with adequate levels of private amenity space provided.

- 8.39 Given the above it is considered the proposal would not have a significant impact on residential amenity, in accordance with Policy DM10 of the SADMP.

Impact upon highway safety and parking

- 8.40 Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.

- 8.41 The consultation response from Director of Environment and Transport (LCC Highways) recommends refusal of the application as the development has not been considered in the context of the wider masterplan for the SUE and that the applicant has failed to demonstrate the impact of the proposals both in terms of safe and suitable access, and the surrounding highway network.

- 8.42 The application proposes a temporary vehicular access from Thurlaston Lane, which is an unclassified, derestricted road. The proposal shows an access width of 5.5 metres and visibility splays of 2.4m x 120m in both directions. This access would be replaced by a new permanent access to the south that links with the wider SUE once development outside of the application site had reached a certain point of delivery. There would be no through route created from the wider SUE to

Thurlaston Road with appropriate conditions being attached to any approval to secure this position.

- 8.43 In the response dated 02/05/2024, LCC Highways made the following points:
1. The Applicant has failed to demonstrate that safe and suitable access for all users would be provided to the development and the proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for highway users contrary to paragraph 110 of the National Planning Policy Framework (2023).
 2. The proposals submitted by the Applicant are prejudicial to the delivery of the proposals identified within the adopted Earl Shilton and Barwell Area Action Plan (AAP). The development proposals do not comply with the Local Plan Policy and are prejudicial to the wider connectivity aspirations of the Earl Shilton SUE for all users, contrary to paragraphs 47, 110 and 112 of the National Planning Policy Framework (2023).
 3. The Applicant has failed to demonstrate any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be mitigated, contrary to paragraph 110 of the National Planning Policy Framework (2023).
- 3.1 Since this consultation response was issued the applicant has worked to alleviate the concerns expressed. The wider SUE has also successfully demonstrated that the impact on the highway network from the wider development is acceptable, subject to certain mitigation measures (Applications A and B have subsequently been considered by the Planning Committee with a Resolution to Grant the outcome). Thus the third reason set out above has fallen away.
- 3.2 Likewise, in terms of the second reason, the applicants have outlined how this application might be delivered with a temporary access arrangement in the first instance, which would be replaced by a permanent access once the development of the wider SUE to the south progresses sufficiently. It is considered that this approach ensures that this application would not be prejudicial to the delivery of the wider SUE – and as such the second reason has fallen away.
- 3.3 With respect to the first reason – the suitability of the design of the proposed temporary access from Thurlaston Lane – there has been ongoing discussions between the applicant and LCC Highways.
- 3.4 In their latest response to the application, LCC Highways have raised the following comments and concerns:

“I visited this site again earlier in the week and while it is clear that Persimmon have cut back the hedge along their site boundary and a tree which could have been problematic for the footway construction has been removed, the third party hedge alongside Marlpit Farm remains (in the meeting Persimmon suggested it had been replaced by a fence) and the hedgerow alongside the pumping station hasn't been cut back. Both grow to the carriageway edge.

Nevertheless, we have undertaken another high level review of the proposals and we have identified the scheme may be undeliverable within the highway extents. I've attached a couple of standard drawings in respect of footway/ carriageway construction which show that construction of the proposals would require additional width over and above the 1.8m footway and 5.5m carriageway. We would also require a 1.0m service margin either side of the carriageway/ footway (that would include the additional width shown in the standard drawings) to

allow for the hedgerow as this could pose a maintenance issue, particularly for the footway.

Ideally we could do with confirmation that a 9.3m corridor could be fully achieved within the extents of the highway and that this would not impact on the third party hedgerows before we could consider the proposals further. This could also mean realignment of the proposed footway/ carriageway."

3.5 The applicant's transport consultants provided a detailed response, as per below:

"We note that you state that "the scheme may be undeliverable within the highway extents." We have the official records of the highway maintained at public expense which, for completion and convenience, is attached. Please note that the records show a verge on the south side of the carriageway. There is a wide highway verge on the north side of the carriageway. Of course, it is then important to consider where the highway boundary is located on the ground. How does the OS plan of highway records correlate with the topographical survey? We have studied the constraints carefully which has brought about the design of the proposals. The red line on the plans defines a cautious interpretation of the highway boundary. Generally, a fence (and not a hedge) defines the highway boundary. In this instance, the redline follows the route of the hedge on the frontage to Marlpit Farm. In fact, a fence, behind the hedge, is 2.5 metres from the kerb line.

You have kindly provided drawings of standard details of highway construction. From studying these drawings it is clear that the Contractor needs an additional width of 100mm to construct the foundation to the edgings at the back of the footway. This width is over and above the width of the carriageway of 5.5m and the footway width of 1.8m. The southern kerb of Thurlaston Lane is moved north in the design by a maximum distance of 1.1m. The design illustrates workable clearance to the hedge and more than sufficient width for a construction margin of 100mm.

We are confident the improvement can be constructed within highway land. Therefore, the design is robust. We have previously provided the design in dwg format and therefore your team can interrogate the detail if required.

Your email refers to a 1 metre highway margin in addition to the footway. The word 'margin' appears twice only in the Design Guide (Part 3) in the Leicestershire Highway Design Guide. A margin is referenced within the section on Utility Equipment. The Leicestershire Highway Design Guide makes no reference or requirement for a margin alongside a footway. There are no standard detail drawings that illustrate a 1 metre margin alongside a footway. A margin is only illustrated on drawings where a footway is omitted.

Therefore, the reference in your email to a highway width of 9.3 metres (1+1.8+5.5+1) is wholly unjustified. Services can adequately be provided within the proposed footway width of 1.8 metres. Forward visibility westbound is significantly improved with the introduction of a 1.8m footway. Additional width (for visibility) in the form of a margin is not required.

Finally, we refer to hedges. Persimmon Homes would create a management company that would be responsible for maintenance for items such as hedgerows. Of course, Section 154 of the Highways Act 1980 provides power to the Highway Authority to serve notice on any land-owner if trees or shrubs obstruct or overhang the highway. As stated above, the hedge along the boundary of Marlpit Farm may actually be in the highway. Hedge maintenance is not a reason for refusal.

We believe we have convincingly demonstrated that a “safe and suitable access to the site can be achieved for all users” (NPPF 114) and the residual cumulative impacts on the road network cannot be construed to be severe (NPPF 115). Furthermore, it is agreed that the connection to Thurlaston Lane for development traffic would be temporary. The existing route of Thurlaston Lane would be substantially improved suggesting the Highway Authority are getting ‘something for nothing.’ An objection is not justified or sensible.”

- 3.6 The concerns raised by the LCC Highways relate solely to the proposed temporary access from Thurlaston Lane. The level of parking provision and the site’s internal road layout have been reviewed by LCC Highways and are generally considered to be acceptable, with the latter considered to be to an adoptable standard and that any minor amendments could be considered at S38 stage.
- 3.7 Having considered the points raised by both parties, it is considered that the concern expressed by LCC Highways are addressed in full by the applicant such that they are not sufficient to refuse an application that is otherwise entirely in accordance with the Development Plan.
- 3.8 Paragraph 115 of the NPPF (2023) states 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.”*
- 3.9 It is considered that the concerns raised by LCC Highways do not evidence a negative impact on highway safety or that residual cumulative impacts on the road network would be severe. It is understood that LCC Highways do not believe that a temporary access should be granted onto Thurlaston Lane, but it is considered that the proposed conditions 3, 4 and 5 would ensure sufficient control over the temporary nature of the access, together with the control over phasing enabled through conditions attached to Applications A and B, that at no point would the new access onto Thurlaston Lane provide an access route to the wider SUE. Thus it would only ever serve the 81 dwellings proposed here, and only until such time as the southern access point is delivered.
- 3.10 Thus the concerns raised by LCC Highways are not supported in this instance.
- 3.11 As such the proposal would not be prejudicial to the delivery of the proposals identified within the adopted Earl Shilton and Barwell Area Action Plan (AAP) and the wider connectivity aspirations of the Earl Shilton SUE. Moreover it would be in keeping with the requirements of Policy DM17 of the SADMP and paragraphs 47, 110 and 112 of the National Planning Policy Framework.

Drainage and flood risk

- 3.12 Policy DM7 of the SADMP requires that development does not create or exacerbate flooding and drainage. The site is situated within flood zone 1 indicating a low risk of flooding.
- 3.13 HBBC Drainage have been consulted on the application and they raise no objection, subject to pre-commencement conditions requiring the separate submission and approval of a sustainable surface water drainage system, details in relation to the management of surface water on site during construction and details in relation to the long term maintenance of the sustainable surface water drainage system, including a SuDS Maintenance Plan.
- 3.14 Similarly, the Lead Local Flood Authority (LLFA) has been consulted, and after amendments to the scheme they stated that the proposals are considered

acceptable to the LLFA, subject to pre-commencement conditions requiring the separate submission and approval of a surface water drainage scheme, details of the management of surface water on site during construction and results of infiltration testing. A pre-occupation condition has also been requested requiring the separate submission and approval of details of the long-term maintenance of the surface water drainage system.

- 3.15 Subject to the imposition of the specified conditions, the proposal is likely to have a minimal impact on flooding and drainage in compliance with policy DM7 of the SADMP.

Ecology

- 3.16 Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation.
- 3.17 The application is accompanied by an Ecological Appraisal, Reptile report, and Biodiversity Net Gain Assessment. Leicestershire County Council's Ecologist has assessed the documents and found them to be satisfactory, acknowledging that a biodiversity net gain of 18.07% can be achieved on site in terms of hedgerow units. Following previous recommendations, further bat and Barn Owl survey works have also been undertaken, and it has been confirmed that the results of these are acceptable.
- 3.18 Apart from a survey of Tree T1 (in the event of its removal) and an update to the badger survey in the 3 months prior to any site clearance, as recommended by the County Council's Ecologist, no further surveys are required. In the event of an approval, the above can be secured via appropriate conditions.
- 3.19 The proposal would therefore have a no significant adverse impact on ecology and would result in biodiversity net gain within the site in compliance with policy DM6 of the SADMP and requirements of the NPPF.

Infrastructure Contributions

- 3.20 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. The AAP also sets out a policy basis for the contributions and on-site provision of various forms of infrastructure the policy basis has been considered when assessing the lawfulness of the requested contributions. To support the provision of mixed, sustainable communities Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements. Indicative locations for the provision of new green spaces and green infrastructure are also set out by the Earl Shilton Sustainable Urban Extension Development Framework.
- 3.21 The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested, they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 3.22 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.

- 3.23 The application will deliver the following open space typologies (with associated areas to be provided):
- Equipped Children's Play Space - 396sqm
 - Casual/Informal Play Spaces – 98sqm
 - Outdoor Sports Provision – N/A
 - Accessibility Natural Green Space – 9030.72sqm
- 3.24 This meets the requirements of Policy 19 of the Core Strategy and the Open Space and Recreation Study (2016). In terms of playing pitch provision, the applicant has worked closely with Sport England to deliver a proposed qualitative improvement to the existing Weaver's Field pitches that meets the requirements of Sports England and will be secured through the S106 Agreement.
- 3.25 As set out above, this application sits alongside Applications A (Reference 23/00330/OUT) and B (21/01551/OUT), and the S106 Obligations for each scheme are therefore largely interrelated. The following table sets out the various consultations sought, together with how they are delivered by each of the applications.

Planning Obligation	Contribution/Works – Both Applications	Application A	Application B	Application C
Affordable housing	Provision of 20% affordable housing with split of 50% affordable rent and 50% affordable home ownership. The affordable home ownership mix will be 39% First Homes and 61% Shared Ownership. Specific mix of dwelling sizes to be agreed at reserved matters stage to reflect the latest affordable need, strategy and overall viability of the scheme at the time.			
Early Years Education Financial Contribution	Financial contribution of £975,621.40 towards construction of Early Years at new Primary School on site.	£324,901.20	£650,720.20	£49,984.40
Early Years – new places in Employment area or Local Centre	Construction of 74 place Early Years provision on site for lease or sale.	24.8 places	49.55 places	circa 4.62 places (or financial contribution towards if provided on App A or App B
Provision of Land for Primary School	Transfer of 1.99ha of serviced land as shown on parameter plan and transfer agreement to LCC.	0.66ha serviced site	1.33ha serviced site	Financial contribution?
Primary School construction financial contribution	Financial contribution of £9,384,696.60 towards construction of primary school on site.	£3,136,464.39	£6,248,232.21	£480,809.88
Secondary Education (11 – 16) Financial Contribution	Financial contribution of £5,889,132.66 towards expansion of provision at Heath Lane Academy.	£1,972,049.01	£3,917,083.65	£301,720.27

Planning Obligation	Contribution/Works – Both Applications	Application A	Application B	Application C
Post 16 Education Financial contribution	Financial contribution of £956,686.50 towards additional capacity at Hinckley School.	£318,895.50	£637,791.00	£49,014.30
SEND Education Financial Contribution	Financial contribution of £846,726.48 towards the cost of expanding special school provision at the school nearest to the development (Dorothy Goodman School Hinckley)	£282,242.16	£564,484.32	£43,380.67
Library Contribution	Financial contribution of £45,374.85 towards improvements at Earl Shilton Library.	£15,098.85	£30,276	£2,324.70
Waste Contribution	Financial contribution of £74,295 towards increasing capacity at the Barwell Household Waste Recycling Centre.	£24,765	£49,530	£3,806.39
Healthcare	<p>Financial contribution of £1,161,600 to deliver NHS healthcare enhancement / extension schemes for providers that deliver NHS healthcare services for the locality of Hinckley. Enhancement / extension scheme to meet the needs of new residents to relate to one of the following NHS Providers whose catchment area covers the development:</p> <ul style="list-style-type: none"> • Health Lane Surgery; or • Barwell & Holly Croft Medical Centres; and or; • Any other Healthcare infrastructure designed to support local patients' healthcare needs. <p>Details of the specific scheme and confirmation of CIL compliance to be confirmed prior to payment of financial contribution. Triggers to be agreed.</p>	£387,200	£774,400	£59,512.71
Improvements to Weavers Springs Sport provision	Financial contribution of £1,352,435.86 towards Sports Improvements, The Indicative scheme is for new 4 changing room Pavilion with car park, and laying out of drainage for new pitches to provide greater playing capacity at Weavers Springs. Includes re-location of existing play area. Costs as set out in Cost report for Pavilion works and Agronomy report identifying pitch improvements and costs. Application A full contribution on commencement of development. Application B contribution to be made in two payments, the first (one third of the costs) on first occupation and the second payment (two thirds of the costs) on occupation of the 450 th dwelling.	£450,811.95	£901,623.91	£69,289.88

Planning Obligation	Contribution/Works – Both Applications	Application A	Application B	Application C
Requirement on ESTC to deliver Weaver's Springs improvements	Requirement on Earl Shilton Town Council (ESTC) to deliver the sports improvements once the S106 contributions have been received. Clause to allow HBBC to deliver the works in the event that ESTC is unable to.			
Off site highway works – Desford Crossroads	Financial contribution of between £1,336,080 to £3,548,891 towards Desford Crossroad improvement scheme, and A47/Clickers Way Footpath/Cycleway scheme subject to provision by LCC of detailed costed scheme and agreement on approach to calculation of appropriate share of total scheme costs, taking into account funding already secured for the scheme.			£64,451.91 - £181,821.74 (Range based on previous estimates – Apps A and B refining with LCC as part of S106 negotiations)
Public Transport Financial Contribution	A financial contribution of £1,106,215 towards re-instatement of the No. 1 bus service in the vicinity of the site in the short term, extension of service to route through part of the site in the medium term, and extension to route through entire site in the long term. This is based on the provision of two buses. Application A to make contribution of £122,912.78 on occupation of the 75 th , 225 th and 350 th dwelling. Application B to make contribution of £245,825.56 on occupation of 150 th dwelling, 450 th dwelling and 700 th dwelling.	£368,738.33	£737,476.67	£56,675.15
Travel Pack contribution	Implementation of travel plan measures (details to be agreed with LCC).	£52.85 per pack per household.	£52.85 per pack per household.	£52.85 per pack per household
Bus pass contribution	Provision of 2 bus passes per household (home owners to apply for the passes).	£415 per pass and 2 passes per household	£415 per pass and 2 passes per household	£415 per pack per household
Travel Plan monitoring contribution	Contribution of £12,000 for monitoring (flat rate of £6,000 per application)	£6,000	£6,000	£6000
LCC S106 Monitoring Contribution	Financial contribution of £300 per LCC contribution or 0.5% of the total value of the LCC contributions whichever is higher.			
HBBC S106 Monitoring Contribution	£1,799 per obligation			
Noise Mitigation measures contribution	Financial contribution of £184,305 to HBBC towards noise mitigation in the	£184,305		£9,442.57

Planning Obligation	Contribution/Works – Both Applications	Application A	Application B	Application C
	<p>form of a fund to be drawn down against for the following:</p> <ul style="list-style-type: none"> double glazing to habitable rooms on front of properties of numbers 1,3,5,7,9 and 13 Astley Road, number 79 Alexander Avenue and number 23 and 24 Weaver Road. towards noise mitigation at St. Simon and St. Judes School in the form of a fund to be drawn down against for an acoustic fence of up to 1.8m fence for either the eastern and southern boundary of the school playground or along part of Astley Road frontage, should a fence be required. <p>Includes additional 50% contingency. Contribution to be returned to Developer if not required.</p>			
TOTAL FINANCIAL CONTRIBUTIONS	Circa £21,989,089.35	Circa £7,471,471.39	Circa £14,517,617.96	

Planning balance

- 3.26 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.
- 3.27 The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5-year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably outweigh the benefits of the scheme. It is therefore important to identify any benefits. The three strands of sustainability the benefits are broken down into are economic, social and environmental contributions.
- 3.28 Economic- The scheme is for 81 dwellings and forms part of the wider SUE. Together with commercial space and education facilities the SUE would provide benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself. Residential development in general can bring economic benefits through increases in the local population which in turn use local services. The development is located in close proximity of Earl Shilton and the services available there would no doubt receive some economic benefits from this development.

- 3.29 Social- The scheme would provide a moderate contribution to the overall housing supply within the Borough through the provision of 81 dwellings. In addition to this, the proposal would bring benefits through the provision of a policy compliant affordable housing where there is an identified need.
- 3.30 Environmental- The proposal is situated within the boundary of the Earl Shilton Sustainable Urban Extension and the environmental impacts and benefits of allocating this SUE were considered at the time of the allocation. Notwithstanding the application documentation has also demonstrated that the impacts upon the character and appearance of the area would not result in significant or demonstrable environmental harm.
- 3.31 The concerns raised by the Highways Authority are noted, however as set out above it is not considered that they have provided sufficiently robust evidence that the concern about highways safety cannot be overcome through the proposed design of the delivery on Thurlaston Lane. Thus the requirement placed on LPAs within the NPPF to only refuse schemes on highways grounds where there is clear evidence of harm.
- 3.32 On balance, great weight should be attributed to the benefits of the scheme, which will contribute to the delivery of the wider Earl Shilton SUE.

4. Equality implications

- 4.1 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.
- 4.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 4.3 There are no known equality implications arising directly from this development.
- 4.4 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).

5. Conclusion

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning

permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 5.2 The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date and the Council cannot demonstrate a 5-year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.3 The proposed development would be a key component of the delivery of the wider Earl Shilton SUE, particularly in terms of the wider connectivity of the allocation. Furthermore, it has been successfully demonstrated that the proposal would provide safe and suitable access for all users, and that any significant impacts from the development on the transport network or highway safety can be adequately mitigated.
- 5.4 It is considered that there is no conflict with the adopted development plan and national planning guidance within the NPPF (2023) as set out in this report.
- 5.5 Therefore, the presumption in favour of sustainable development applies in this case and there are no other material considerations that would justify making a decision other than in accordance with the development plan.

6. Recommendation

- 6.1 **Approve outline planning permission subject to a S.106 Agreement being signed, and to the conditions set out below.**

11.1 Conditions and Reasons

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

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

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

- i. Drawing No. TGDP/TLES/MP1 - Colour Masterplan
- ii. Drawing No. CPL-EXT_ES-SRP Rev Q - Colour Planning Layout
- iii. Street scene 2 – CGI - Plots 71 – 74
- iv. Street scene 3 – CGI - Plots 77 – 81
- v. House Type Brochure - 20th June 2024
- vi. Drawing No. 09642-FPCR-XX-XX-DR-L-0003-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- vii. Drawing No. 09642-FPCR-XX-XX-DR-L-0004-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- viii. Drawing No. 09642-FPCR-XX-XX-DR-L-0005-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- ix. Drawing No. 09642-FPCR-XX-XX-DR-L-0006-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- x. Drawing No. PL-ECT_ES_RPM Rev E - Materials Plan
- xi. Drawing No. ES-BTP-01 Rev B - Boundary Treatment Plan
- xii. Drawing No R-9188A-DJC-EK – June 2024 - Noise Impact Assessment

- xiii. Drawing No. PL-ES-TempA-01 - Temporary Access Plan
- xiv. Transport Statement Version 2 - 23 May 2024
- xv. Drawing No. 9642 AA_C - Tree Retention Plan
- xvi. Drawing No. 784-B026389 - Air Quality Assessment
- xvii. 20-429 Written Scheme of Investigation
- xviii. 2020-143 Archaeological Excavation
- xix. Drawing No. 21246 109B S38 Layout - Southern Entrance SH1of2
- xx. Drawing No. 21246 110B S38 Layout - Southern Entrance SH2of2
- xxi. Drawing No. 21246 103F S104 - Drainage Layout
- xxii. Drawing No. 21246 104D S104 Drainage Layout
- xxiii. LVIA Sept 2020
- xxiv. 20232-RLE-20-XX-RP-O-0005-P03 Phase 2 Report Site Investigation
- xxv. Drawing No. SLP_ES_01 - Site Location Plan
- xxvi. FW1670_TP_001 V3 Travel Plan
- xxvii. Tree Survey October / January 2022

Where the above documents include proposed mitigation, this shall be delivered in accordance with the approved details and timetable.

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. Prior to the first occupation of any dwelling the access shown on drawing number PL-ES-TempA-01 will be provided and a temporary s278 agreement entered into with the Highway Authority.

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 (2016) and the requirements of the NPPF (2023).

4. Prior to the implementation of the access shown on drawing CPL-EXT_ES-SRP Rev Q, the temporary access to Thurlaston Lane will be stopped up to prevent the through flow of traffic from the SUE. There will be no through route created to Thurlaston Road from the Sustainable Urban Extension to the south.

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 (2016) and the requirements of the NPPF (2023).

5. Within 9 months of the access to the south, shown on drawing CPL-EXT_ES-SRP Rev Q, being provided and the temporary access to Thurlaston Lane being stopped up, the landscaping as shown on drawing no. 09642-FPCR-XX-XX-DR-L-0003 shall be provided 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 (2016) and the requirements of the NPPF (2023).

6. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

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) and the requirements of the NPPF (2023).

7. Development shall not begin until a scheme to provide a sustainable surface water drainage system in accordance with the Flood Risk Assessment and Drainage Strategy dated November 2020 has been submitted to and approved by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent an increase in flood risk and ensure access and egress can be maintained in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF (2023).

8. Prior to commencement of development details in relation to the management of surface water on site during construction of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.

Reason: To prevent an increase in flood risk and ensure access and egress can be maintained in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF (2023).

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

Reason: To prevent an increase in flood risk and ensure access and egress can be maintained in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF (2023).

10. 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.

Reason: To prevent an increase in flood risk and ensure access and egress can be maintained in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF (2023).

11. Prior to the commencement of development an updated badger survey and report shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF (2023).

12. The proposed development shall be provided strictly in accordance with the approved landscaping plans 09642-FPCR-XX-XX-DR-L-0004 and 09642-FPCR-XX-XX-DR-L-0005

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) and the requirements of the NPPF (2023).

13. Prior to the commencement of development a Construction Environmental Management Plan for that Phase shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall provide details of the following:
 - a) The parking of vehicles of site operatives and visitors
 - b) The hours of operation, including deliveries.
 - c) Loading and unloading of plant and materials
 - d) Storage of plant and materials
 - e) Location of contractor compounds and temporary haul roads
 - f) Wheel washing facilities
 - g) Management of surface water run-off including details of any temporary localised flooding management system and temporary earth works
 - h) Prevention of impact to existing and proposed residents from dust, odour, noise, smoke, light and land contamination.
 - i) Details of monitoring.
 - j) Routeing of construction traffic (including provision of directional signage)

The approved Construction Environmental Management Plan for that Phase of Development shall be implemented throughout the course of the construction of that Phase of the Development.

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

14. If during construction of the 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 in the development is submitted in writing to and approved in writing by the Local Planning Authority. Such scheme which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved pursuant to the scheme shall be carried out in accordance with the approved scheme.

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).

15. Prior to Commencement of Development the existing and proposed ground levels of the Phase and proposed finished floor levels of the development shall be submitted to and approved 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).

16. Prior to the Commencement of Development 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 detail of the location and fitting of the units. The development shall then be implemented in accordance with the approved scheme.

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.

17. Prior to the Commencement of Development a scheme that makes provision for the secure storage of cycles for each dwelling shall be submitted in writing to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved scheme.

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

18. Prior to the Commencement of Development a scheme which makes adequate provision for waste and recycling storage of containers and collection shall be submitted to and approved in writing to the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The development shall then be implemented in accordance with the approved scheme.

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).

19. 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 prior written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such same size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

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

20. No trees and shrubs shall be removed on site during the bird nesting season (1st March - 31st July inclusive).

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

11.2 Notes to applicant

- 1) This application has been determined having regard to the following documents and plans submitted with the application:

- xxviii. Drawing No. TGD/PLES/MP1 - Colour Masterplan
- xxix. Drawing No. CPL-EXT_ES-SRP Rev Q - Colour Planning Layout
- xxx. Street scene 2 – CGI - Plots 71 – 74
- xxxi. Street scene 3 – CGI - Plots 77 – 81
- xxxii. House Type Brochure - 20th June 2024
- xxxiii. Drawing No. 09642-FPCR-XX-XX-DR-L-0003-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- xxxiv. Drawing No. 09642-FPCR-XX-XX-DR-L-0004-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- xxxv. Drawing No. 09642-FPCR-XX-XX-DR-L-0005-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- xxxvi. Drawing No. 09642-FPCR-XX-XX-DR-L-0006-P06 - Landscaping Plans (Detailed Softworks and Play Proposals)
- xxxvii. Drawing No. PL-ECT_ES_RPM Rev E - Materials Plan
- xxxviii. Drawing No. ES-BTP-01 Rev B - Boundary Treatment Plan
- xxxix. Drawing No R-9188A-DJC-EK – June 2024 - Noise Impact Assessment
- xl. Drawing No. PL-ES-TempA-01 - Temporary Access Plan
- xli. Transport Statement Version 2 - 23 May 2024
- xl. Drawing No. 9642 AA_C - Tree Retention Plan
- xl. Drawing No. 784-B026389 - Air Quality Assessment
- xl. 20-429 Written Scheme of Investigation
- xl. 2020-143 Archaeological Excavation
- xlvi. Drawing No. 21246 109B S38 Layout - Southern Entrance SH1of2
- xlvii. Drawing No. 21246 110B S38 Layout - Southern Entrance SH2of2
- xlviii. Drawing No. 21246 103F S104 - Drainage Layout
- xl. Drawing No. 21246 104D S104 Drainage Layout
- l. LVIA Sept 2020
- li. 20232-RLE-20-XX-RP-O-0005-P03 Phase 2 Report Site Investigation
- lii. Drawing No. SLP_ES_01 - Site Location Plan

- liii. FW1670_TP_001 V3 Travel Plan
- liv. Tree Survey Oct

- 2) 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.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.

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Planning Committee 30th July 2024
Report of the Head of Planning

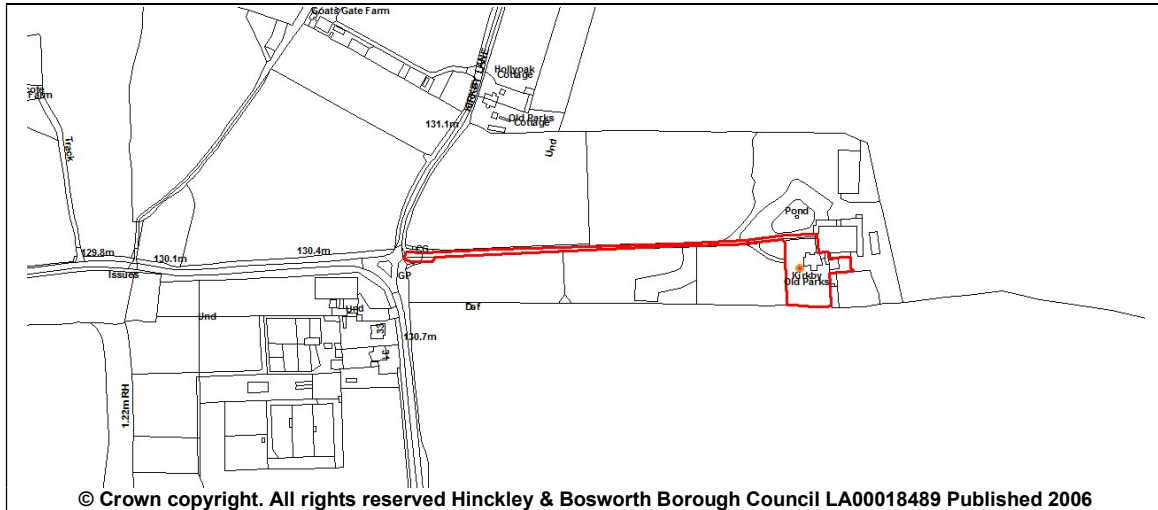
Planning Ref: 24/00488/HOU
Applicant: Mr Jamie Anderson
Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Kirkby Old Parks Farm Kirkby Lane Newbold Verdon

Proposal: Two-storey side extension, creation of balcony, demolition and replacement of ancillary outbuilding and construction of a double garage (Retrospective)



1. Recommendations

1.1. Grant retrospective planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This householder application seeks retrospective planning permission for the construction of a two-storey side extension including first floor balcony, other alterations to the dwelling, the demolition and replacement of a detached ancillary outbuilding and the construction of a double garage to serve a dwelling, Kirkby Old Parks Farm, Kirkby Lane, Newbold Verdon.
- 2.2. The recently constructed two storey extension extends from the middle of the south facing elevation and is approximately 6 metres in width and 4 metres in depth and has matching eaves and ridge heights to the main roof. The ground floor provides an extended kitchen/living area. At first floor there is a bedroom extension with a 1.5 metres deep external balcony covered by a dual pitched gabled roof with brick supporting columns to the two external corners. The extension has been constructed with red rustic facing bricks, architectural detailing, slate roof and cream coloured UPVC windows to match the architectural detailing and corresponding external construction materials of the remainder of the dwelling.
- 2.3. The recently constructed detached double garage and ancillary outbuilding lie immediately to the east (rear) of the dwelling. The 1½ storey detached double garage is 9 metres in width and 8.1 metres in depth and has a dual pitched gable

sided roof form with an eaves height of 4 metres and ridge height of 8 metres. An internal staircase leads to the first floor loft space which is used as an ancillary home office and recreation/games room. The replacement single storey outbuilding is attached to part of the west (rear) elevation of the garage and is 11.4 metres in width and 3.4 metres in depth and has a lean-to/monopitch roof form with an eaves height of 2.4 metres and a maximum height of 4.3 metres. It is divided internally and is used as a garden store, dog washing room, boiler room and toilet facilities. They are both constructed of red rustic facing bricks, Spanish slate roof, matching cream UPVC windows, slate grey roof lights and dark grey garage and other doors.

- 2.4. An amended elevations plan has been submitted to include the provision of two bat boxes and address chimney inaccuracies on the originally submitted elevations.

3. Description of the site and surrounding area

3.1. The application site is located in the countryside to the southeast of Newbold Verdon and to the west of Kirkby Lane. It includes a two storey detached farmhouse, the recently constructed 1½ storey detached double garage with loft floorspace and the single storey ancillary outbuilding. The two storey farmhouse has a traditional overall design and style and is constructed of red rustic facing bricks, a slate roof with dual pitched roof form with two storey gables with the same eaves and ridge heights to all four sides and dark stained timber bargeboards/eaves. It has an open front porch constructed with low level brick walls and timber framing supporting a dual pitched gabled roof, a central brick chimney stack, brick plinth with blue canted copings, cream stone cills and angled brick headers to windows. It has replacement cream coloured uPVC windows throughout. It has extensive amenity areas to the west, north and south of the dwelling.

3.2. The recently constructed detached double garage and ancillary outbuilding lies immediately to the east (rear) of the dwelling. Adjacent to the northeast there is a quadrangle of 1½ storey and single storey brick and tile barns enclosing a large, loose stone surfaced courtyard providing extensive parking and turning space to serve the site. Access to the site is via a long, gated hard-surfaced private driveway from Kirkby Lane which lies to the west. There are open agricultural fields surrounding the building complex and associated land.

4. Relevant planning history

10/00489/GDO

- Erection of an agricultural building
- General Permitted Development Order
- 18.08.2010

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2. No responses have been received as a result of public consultation at the time of writing this report.

5.3. The application has been called in for determination by the Committee by Cllr Bools due to the significance of the works that have already been undertaken without permission within the countryside.

6. Consultation

- 6.1. Leicestershire County Council (Highways) refer to current standing highway authority advice and suggest revision of the red edge on the site location plan to include the existing access up to the public highway.
- 6.2. Leicestershire County Council (Ecology) would normally have requested a bat survey but as the application is retrospective, they recommend a condition to secure the provision and retention of two bat boxes to mitigate any potential loss of former bat habitat.
- 6.3. Environmental Health (Drainage) refer only to the discharge of rainwater from the detached garage roof.
- 6.4. No responses have been received at the time of writing this report from Ramblers Association or Newbold Verdon Parish Council

7. Policy

- 7.1. Core Strategy (2009)
 - No relevant policies
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy 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) (2023)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
 - Good Design Guide (2020)
 - National Design Guide (2019)
 - Local Highway Authority Design Guide

8. Appraisal

- 8.1. Notwithstanding the countryside location, extensions and alterations to existing domestic properties including ancillary buildings 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 site and surrounding countryside
 - Impact upon bats and their habitat
 - Other matters

Design and impact upon the character of the area and surrounding countryside

- 8.2. Policy DM4 of the adopted SADMP allows extension and alteration of existing buildings in the countryside including ancillary structures which lead to an enhancement of the immediate setting and where it does not have a significant adverse effect on the appearance and open character of the countryside. 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.

- 8.3 The recently constructed two storey extension extends from the south side elevation the dwelling. Whilst it is not subordinate in terms of its height, as it has matching eaves and ridge heights to the main roof, this matches the heights of the two storey gables to the other three sides of the dwelling and is considered to be a characteristic integral feature of this traditionally designed and styled dwelling. In addition, by virtue of its set back of 5.5 metres from the front elevation and 4.7 metres from the rear elevation together with its width of only 6 metres and depth of only 4 metres, the extension still appears as a clearly subordinate addition to the previously existing substantial farmhouse when viewed from the three sides where it is visible. The covered external balcony at first floor is perhaps not a traditional feature of a farmhouse but is nevertheless considered to be an acceptable design feature in the context of this site. The extension has been constructed with red rustic facing bricks, architectural detailing, slate roof and cream coloured UPVC windows to match the architectural detailing and corresponding external construction materials of the remainder of the dwelling and therefore results in a satisfactory and uniform appearance.
- 8.4 The recently constructed detached double garage and ancillary outbuilding lie immediately to the east (rear) of the dwelling where they are screened from the Kirkby Lane highway and are well related to the complex of previously existing buildings on the site. They have a substantial combined footprint of 9 metres in width and 8.1 metres in depth and 11.4 metres in width and 3.4 metres in depth and are a mix of 1½ storey and single storey height. Notwithstanding the height and footprint, by virtue of the substantial scale of the host dwelling that they relate to, the buildings are nevertheless subordinate additions reflecting their ancillary uses and do not overwhelm the existing dwelling. The buildings have a plain but not unacceptable design that reflects their functional ancillary uses and are appropriate in their context. They are also constructed of red rustic facing bricks, Spanish slate roof, matching cream UPVC windows, slate grey roof lights and dark grey garage and other doors and therefore result in a satisfactory and uniform appearance. They are currently used for purposes ancillary to the occupation of the application dwelling and their future use can be restricted to remaining ancillary through the imposition of a condition (2).
- 8.5 By virtue of their siting well within the site/landholding boundaries and their proximity to the existing building complex, together with their appropriate scale, design and appearance, it is considered that the proposals would not appear overly visually prominent or result in any significant adverse impacts on the rural appearance or open character of the surrounding countryside.
- 8.6 By virtue of their siting, scale, design, matching external appearance and ancillary uses, the proposals are considered to respect and complement the scale, character and appearance of the application dwelling and wider site and would not result in any significant adverse impacts on the rural appearance or open character of the surrounding countryside. The proposals are therefore considered to be in accordance with Policies DM4 and DM10 of the adopted SADMP and the general principles of the adopted Good Design Guide.

Impact upon bats and their habitat

- 8.7 Policy DM6 of the adopted SADMP requires that development proposals demonstrate how they conserve and enhance features of nature conservation.
- 8.8 Leicestershire County Council (Ecology) consider that *'the site is located in a rural area, with mature trees and hedgerows providing good habitat connectivity to nearby woodland blocks. This provides good habitat for foraging and commuting bats. Farmhouses and outbuildings of brick and tile construction in these locations often provide suitable roosting habitat for bats.'* As such, the submission of a pre-assessment bat survey would normally have been required to assess any potential impact on bats and their habitat prior to determination of the application.
- 8.9 However, as this is a retrospective application and therefore this is no longer possible, Leicestershire County Council (Ecology) require a condition to be attached to any planning permission for a minimum of two suitable bat boxes to be installed in suitable specified locations on the buildings in order to replace any potential bat roosting features lost by the development. An amended plan has been submitted to include the installation of two bat boxes of suitable specifications in the locations specified to mitigate any potential impact on bat habitat. Subject to a condition (3) to secure the provision and retention of the two bat boxes it is considered that the proposal would be in accordance with the general requirements of Policy DM6 of the adopted SADMP.

Other matters

- 8.10 The site has adequate access from the public highway (Kirkby Lane) to the west along a long established and recently upgraded private driveway. The site provides ample parking space to serve the site within the recently constructed double garage that is the subject of this application, its forecourt and the large loose stone surfaced courtyard within the quadrangle of outbuildings immediately adjacent to the dwelling. Therefore, there are no highway implications arising from the development and the proposals would therefore accord with Policies DM17 and DM18 of the adopted SADMP.
- 8.11 There are no nearby neighbouring dwellings and therefore the proposals would have no adverse impacts on any residential amenity or privacy.
- 8.12 The detached garage and replacement outbuilding have been constructed with satisfactory rainwater discharge systems for the site.

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. Notwithstanding the countryside location, the proposals relate to extensions and alterations to an existing dwelling where there is a general presumption in favour of sustainable development as set out in Policy DM1 and DM4 of the adopted SADMP and the overarching principles of the NPPF.

10.2. By virtue of their siting, scale, design, appearance and ancillary uses, the proposals are considered to respect and complement the scale, character and appearance of the application dwelling and wider site and would not result in any significant adverse impacts on the rural appearance or open character of the surrounding countryside or any residential amenities. Adequate access and parking is provided to serve the site and more than adequate private amenity space would be retained within the site to serve the resulting dwelling. Subject to the proposed provision and retention of two bat boxes the proposals would mitigate any potential adverse impacts on bats and their habitat. The proposals are considered to be in accordance with Policies DM1, DM4, DM6, DM10, DM17 and DM18 of the adopted SADMP and the general principles of the adopted Good Design Guide and are therefore recommended for retrospective approval subject to conditions.

11. Recommendation

11.1 **Grant retrospective planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 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: Location Plan Drawing No. ND.24.190.01 Rev A received by the local planning authority on 20 June 2024, Proposed Block Plan and Floor Plans Drawing No. ND.20.122.04 Rev A received by the local planning authority on 16 May 2024 and Proposed Elevations Drawing No. ND.20.122.05 Rev C received by the local planning authority on 8 July 2024.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The double garage and replacement outbuilding hereby permitted shall only be used for purposes ancillary to the occupation of the application dwelling, Kirkby Old Parks Farm and for no other purposes whatsoever at any time.

Reason: To ensure that the uses of the building remain compatible with the site in accordance with Policies DM4, DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. Within six months of the date of this planning permission the two bat boxes detailed on the approved Proposed Elevations Drawing No. ND.20.122.05 Rev C received by the local planning authority on 8 July 2024 shall have been installed in accordance with the bat box details and specifications on the plan and once so installed shall be permanently retained and maintained as such at all times thereafter.

Reason: In order to protect wildlife species and enhance their habitat in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

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Planning Committee 30th July 2024
Report of the Head of Planning

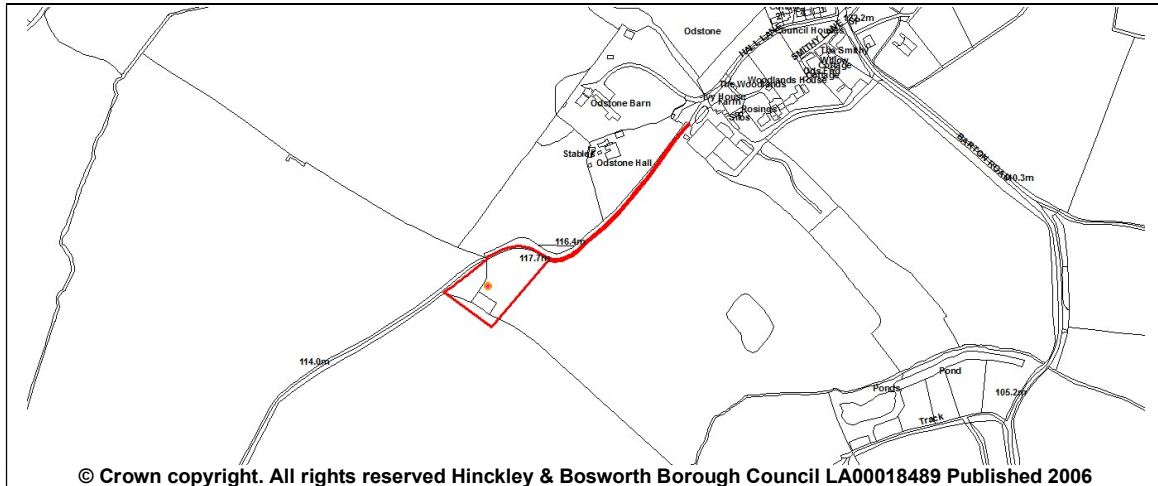
Planning Ref: 23/01048/FUL
Applicant: B&C Lampard Partnership
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Land Off Hall Lane, Odstone, Leicestershire

Proposal: Change of use of a building from agricultural to residential and associated works



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The proposal is for the conversion of an agricultural building to a residential property including associated works which involve a contemporary extension to the existing building. The property would contain two bedrooms, an open plan kitchen, dining, and living area, a bathroom, and utility room. Parking would be provided for two vehicles.
- 2.2. The proposal was amended following the initial submission, following the request from officers to amend the design of the proposal, specifically in relation to the siting and scale of the extension, materials, parking arrangement, and openings. The latest submission reflects these requests.

3. Description of the site and surrounding area

- 3.1. The building is located around 300m south-west of the settlement of Odstone, and off the track that links the settlement from Hall Lane to Tivey's Farm which is c.1.25km to the west. The building forms part of the wider landholding of Tivey's Farm and has most recently been used for housing cattle.
3. The building has a rectangular plan form and consists of a red brick walls and dual pitched slate tile roof. There are two small openings to the north-western elevation and the south-eastern elevation is open to a small square plan courtyard which is defined by red brick walls, sections of which have collapsed and open out into a

large field that extends to the south and east. The general footprint of the building and the defined courtyard are evident on the first edition Ordnance Survey map of 1885 which indicates that this arrangement of built form, and the building itself can be dated back to at least the 19th century. The lower sections of the walls of the building consist of historic brickwork of various phases, with the upper section of the building consisting of a replacement roof added within the last decade. Some sections of the courtyard walls are also a modern rebuild.

4. Relevant Planning History

N/A

5. Publicity

5.1. The application has been publicised by erecting a site notice at the access to the site. 7 letters of objection have been received making the following comments:

- Inaccuracies in Planning Statement regarding recent use of the site
- Traffic movements to the site would be increased
- Access is via a bridleway which is 'rationae tenurae', not a private road as outlined in the Planning Statement.
- Harm to the character of the countryside
- Access to the proposed property is a Bridleway and public footpath and as such cannot be resurfaced to allow vehicular access. In the winter this Bridleway becomes quite muddy and vehicular access will be restricted. This would mean vehicles would have to park at Ivy House Farm.
- Principle of development. Odstone is designated as a zero development area for housing and previous planning applications have been refused on this basis.
- No mains services to the building.
- Impact on trees and biodiversity.
- Insufficient parking provision

6. Consultation

6.1. Shackerstone Parish Council – Objection

- Insufficient parking or turning within plans submitted.
- That the access track is a public right of way used by walkers and horse riders in particular. The increase in traffic of two (potentially more) vehicles for a residence plus visitors/ deliveries etc will be substantial. We also believe that a resident owns some of the road at the bottom of Hall Lane and is currently seeking independent legal advice as to whether this grants them any rights over said road.
- That Hall Lane is currently a dead end with access to the track being via a stile and a poorly maintained gate. It is imperative that this gate is retained and that it is kept permanently closed. Residents regularly have altercations with van drivers approaching the top of Hall Lane at excessive speed. If this gate is removed or allowed to be kept open and drivers see the track as an extension of Hall Lane it is only a matter of time before there is a collision or injury.

- Hall Lane itself (from Crown Cottages to the track has no footpath). It is regularly used by walkers (as it is part of the Shackerstone Parish Gopsall Villages Loop). Any increase in traffic (which this development would absolutely create) would add further danger to pedestrians and horse riders.
- There is currently an issue with members of the public parking at the end of Hall Lane – we presume in order to access the footpath. During the winter the track to the proposed development gets very wet and rutted and virtually impassable. If this development is allowed there will almost certainly be an increase in drivers and visitors parking at the end of Hall Lane. This creates access and visibility issues for the three houses at the end of Hall Lane.
- Over the winter, with the trees having shed their leaves, the proposed development has become clearly visible from houses at the end of Hall Lane. If consent is given it will lead to light pollution in what is currently open countryside and disturbance to the wildlife, especially in the small copse within the application site.
- Odstone has been designated as an area that should not see any residential development. To grant permission for a residence within open countryside, which is not adjacent to any existing housing would be a clear breach of this policy.

- 6.2. LCC Highways – No objections subject to conditions.
- 6.3. HBBC Drainage – No objection.
- 6.4. LCC Ecology – No surveys required, no objection.
- 6.5. HBBC Environmental Health – No objection – land contamination conditions recommended.
- 6.6. HBBC Conservation Officer – No objection.
- 6.7. HBBC Waste: No objection subject to condition.
- 6.8. LCC Archaeology – No objection following the submission of a trial trenching report upon request (submitted 17/05/2024, CFA Report Ref.: 4478).

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 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 DM15: Redundant Rural Buildings
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2023)

- Planning Practice Guidance (PPG)
- National Design Guide
- Good Design Guide (2020)

8. Appraisal

8.1. Key Issues

- Principle of development
- Design and impact upon the character of the area
- Impact on heritage assets
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Ecology
- Other matters
- Planning balance

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF, 2023) 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. Hinckley and Bosworth Borough is currently unable to demonstrate an up to date 5-year supply of land for housing. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered as the Council cannot demonstrate a 5-year housing land supply. 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.
- 8.5. The site lies within the rural hamlet of Odstone which has no settlement boundary as such the site lies within open countryside. Policy DM4 is therefore applicable.

8.6. Policy DM4 seeks to protect the countryside from inappropriate development. However, the policy states that 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 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 stand alone renewable energy development or
- e) It relates to the provision of accommodation for a rural worker

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
- iv. It protects the role and function of the Green Wedge
- v. It contributes to the delivery of the National Forest Strategy

8.2. Policy DM15 of the SADMP supports the re-use and/or adaptation of redundant or disused rural buildings where:

- a) The applicant demonstrates the building is no longer viable in its current use
- b) The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and
- c) Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and
- d) The proposed development accords with Policy DM10: Development and Design and relevant design guidance, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets.

All development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.

8.7. The applicant has demonstrated that the building is not required for its former agricultural use. The building is in a structurally sound condition, and no structural works are required as part of the proposal. The proposal does include an extension to the existing building, and this has been judged to be proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage. The proposal therefore complies with SADMP Policy DM15 in this regard.

8.8. This proposal seeks to convert an existing building within the site which would lead to the enhancement of the immediate setting of the site. As such, the principle of residential development on the site would be acceptable in terms of Policy DM4 and Policy DM15 of the SADMP and guidance in the NPPF, subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the area

- 8.9. 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.
- 8.10. The Good Design Guide SPD provides guidance upon how to design a conversion. This includes avoiding complex elevations, as well as resisting architectural decoration and ornament. Residential conversions should not become overly domestic in appearance and retain the buildings key features and openings.
- 8.11. The application building has been recently modified, with the lower sections of the walls of the building consisting of historic brickwork of various phases, with the upper section of the building consisting of a replacement roof added within the last decade. Some sections of the courtyard walls are also a modern rebuild.
- 8.12. The proposal seeks to convert the agricultural building into a single dwelling, and consists of utilising the existing limited number of openings to the north-eastern elevation for fenestration, the additional of a single window in each of the side (north-east and south-west) elevations, and the addition of a single storey glass box extension set within a steel frame to the former open south-eastern elevation, alongside a small section of building up the walls of this elevation. The courtyard walls are to be repaired and reinstated where required, other than retaining a small open section of the courtyard walls out into the wider field which will be subdivided with a post and rail fence to provide a grassland amenity area. Two linear parking spaces are proposed off the north-western elevation, accessed from an existing crushed stone trackway which spurs off from the main track.
- 8.13. The proposed design retains the scale and form of the existing agricultural building and avoids domestic additions with the exception of some new window openings and entrance door. The proposal includes a glazed flat roof single storey extension, and this high quality, contemporary addition complements the existing building well by contrasting with the appearance and materials of the existing building, whilst remaining subordinate to the main building. The proposed materials retain the existing red brick structure to the building and boundary wall and are considered acceptable. The proposed conversion and alterations are considered to provide the building with a sustainable future and purpose, preserving its character and ensuring that the character of the surrounding area is not significantly altered or harmed.
- 8.14. The building is visible both from the bridleway where the access is taken, as well as glimpses from footpath S69 which runs south easterly approximately 300m east of the site. Whilst the domestication of the building will be partly noticeable due to the glazed extension and possible domestic paraphernalia, the boundary wall will screen the site, maintain the rural and agricultural character of the site. The proposed parking area has been located along the western boundary of the building, effectively screening it from longer views from the footpath. Whilst there will be some domestication of the site which would detract from the agricultural and rural character of the site, this is not considered to be significantly harmful to the overall appearance and character of the site and surrounding area.

- 8.15. Overall, it is considered that the proposed extensions and alterations are proportionate to the size, scale, mass and footprint of the original building, and with repairs and reinstatement of the courtyard walls the historic curtilage of the building would remain clearly defined. The proposed scheme would have a positive impact on the character and appearance of the site and surrounding area by respectfully converting and altering the agricultural building, and would meet the requirements Policies DM4, DM6, DM8 and DM10 of the adopted SADMP and the general principles of the adopted Good Design Guide.

Impact on heritage assets

- 8.16. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. 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.
- 8.17. Policies DM11 and DM12 of the SADMP DPD 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. 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.
- 8.18. The Leicestershire and Rutland Historic Environment Record (HER) notes that the application site lies within the medieval and post-medieval historic settlement core of Odstone, although the building itself is located a considerable distance from the current settlement and it is not identified as a record in its own right. Whilst the building has the potential to be of some archaeological value, and it has some historic value allowing for an understanding of farming practices and the arrangement of buildings associated with Tivey's Farm, the level of heritage interest is considered to be low. The complex has also been considerably altered over time with a number of functional adaptations to suit varying uses, including the most recent works of the replacement roof leaving only limited amount of historic fabric remaining. The building has no particular architectural or aesthetic value. Whilst the building has a minor level of local heritage interest, it is not currently considered to be at the level required to warrant identification as a local heritage asset. As the application building is not considered to be a non-designated heritage asset then the direct effects of the proposal upon the heritage significance of the building are not a material planning consideration, however the building can still be considered a traditional rural building and Policy DM15 (redundant rural buildings) of the SADMP is therefore relevant.
- 8.19. There are two grade II listed buildings within the vicinity of the site; Ivy House Farm which is an early to mid-18th century farmhouse c.360m north-east of the application building, and Odstone Hall which is a large 17th century house that was remodelled in the 18th century.
- 8.20. The National Planning Policy Framework (NPPF) (Annex 2) defines the setting of a heritage asset as "the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.

Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.” Historic England provide advice on the setting of heritage assets in their Good Practice Advice in Planning Note 3 (GPA3) (2015), this identifies that the surroundings in which an asset is experienced may be more extensive than its curtilage. The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way which we experience an asset in its setting is also influenced by other factors such as noise, dust and vibrations from other land uses in the vicinity, and by our understanding of the historic relationship between places. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting as this will vary over time and according to circumstance.

- 8.21. Due to the presence of the modern agricultural buildings and intervening distance there is no clear intervisibility between the application site and Ivy House Farmhouse and there is an absence of key historic or functional relationships between them. The existing arrangement is regards of access to the proposed dwelling, via a field gate to the track at the end of Hall Lane and slightly to the west of Ivy House Farmhouse would be unaltered. The listed building Ivy House Farmhouse is therefore not considered to be potentially sensitive to adverse impacts as a result of the development proposal.
- 8.22. There is some limited intervisibility between Odstone Hall and the application building through existing field boundary vegetation, particularly during the season of limited leaf cover. The application building and Hall can also be glimpsed together in long distance views looking north-west from the public right of way which approaches Odstone from the south, in the large field adjacent to the application site. Whilst there are no key historic or functional relationships between the application site and the Hall, a minor appreciation of the special historic and architectural interest of the Hall can be obtained when positioned within the surrounds of the application site, and where the application building falls part of the surrounding rural context and is a neutral presence within the wider setting of the Hall.
- 8.23. The HBBC Conservation Officer has no objections to the revised proposal, concluding that the proposed extensions and alterations are proportionate to the size, scale, mass and footprint of the original building, and with repairs and reinstatement of the courtyard walls the historic curtilage of the building would remain clearly defined. For these reasons there will be a very limited visual change within the wider setting of the grade II listed building Odstone Hall, with the application building and proposed development, if implemented, continuing to be a neutral presence within its wider setting and not reducing or adversely affecting the ability to appreciate the significance of the Hall from its setting.
- 8.24. The proposal would therefore be compatible with the significance of the listed building Odstone Hall and its setting and consequently the proposal complies with Policies DM11 and DM12 the SADMP, section 16 of the NPPF, and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.25. Policy DM10 of the adopted SADMP and the adopted Design Guide require that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.

- 8.26. There are no immediate neighbouring residential uses that abut or surround the site and the proposal provides adequate outdoor amenity space for the dwelling. Therefore there are no concerns regarding residential amenity.
- 8.27. Overall, subject to conditions the proposed development would accord with policies DM7 and DM10 regarding noise/pollution and residential amenity.

Impact upon highway safety/parking provision

- 8.28. Policy DM17 of the adopted SADMP supports development where there would be no significant adverse impact on highway safety. Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.29. The proposed access would be via an unnamed minor gated public road which continues in a south westerly direction off Hall Lane. This road is maintainable at private expense by the occupier of the land adjoining the road, although the LHA is responsible for protecting the public's right of way along the whole route.
- 8.30. The gated road is a public highway open to all traffic and subject to national speed limit. From the centre of Odstone, the gated road runs directly off Hall Lane, which is an unclassified road maintainable at public expense by the LHA and subject to a 30-mph speed limit by virtue of street lighting.
- 8.31. Based on Part 3, Figure DG20 of the Leicestershire Highway Design Guide, (LHDG) for an access serving 1 dwelling, a minimum effective width of 2.75 metres should be provided, with an additional 0.5 metre strip on each side bound by a wall/ hedge/ fence etc. The existing access width measures approximately 4.5 metres, therefore the LHA consider this in accordance with guidance.
- 8.32. In terms of trip generation, the LHA accept the findings of the applicant that whilst the proposed development will create a number of vehicle movements from the change of use application - these can be offset against those from its existing lawful use as an agricultural building.
- 8.33. The internal layout of the proposals are detailed on Andrew Large Surveyors Ltd Proposed Site Layout. The submitted application form indicates that the proposed development would consist of one x 3 bed dwelling. On this basis, the development would require two car parking spaces. The aforementioned Proposed Site Layout plan shows two car parking spaces provided. On this basis, the LHA consider it is unlikely the proposals would lead to an increase in on-street parking in the area.
- 8.34. The proposed access is considered safe and suitable to serve the proposed dwelling, and the proposed parking provision is adequate, and the level of trip generation is not considered to be considerably different to the existing lawful use as an agricultural building. The proposal is therefore considered to accord with Policies DM17 and DM18 of the adopted SADMP and the general principles of the local highway authority design guidance subject to conditions.

Flood risk and drainage

- 8.35. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding. The Council's drainage officer was consulted and has no objections to the proposal. The proposed development is therefore considered to

accord with Policy DM7 of the SADMP and would not create or exacerbate flooding and is in a suitable location in respect of flood risk.

Other matters

- 8.36. LCC Ecology were consulted as part of this application and confirmed that the roof of the building has been recently replaced. There are no gaps present beneath the tiles and the ridges are well pointed, it is also open internally with no enclosed roof void where roosting bats could be present. Furthermore, the proposal does not involve any felling of trees and there is no ecological or biodiversity interest on the existing site. The proposal is therefore judged to accord with Policy DM6 of the SADMP in this regard and would have no detriment to ecology or biodiversity.
- 8.37. A planning condition has been included to remove Permitted Development rights to ensure that the dwelling is not extended or altered with prior notification to the Local Planning Authority to ensure that the design, character, and appearance of the site and surrounding area is preserved.

Planning Balance

- 8.38. 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.
- 8.39. This application is for the conversion of an existing, redundant building within open countryside which is considered to accord with Policies DM4 and DM15 of the SADMP. In addition, the most recent housing land monitoring statement indicates, that the Council cannot demonstrate a 5-year housing land supply. This is also a key material consideration and under these circumstances, the NPPF 2023 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”*
- 8.40. 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”*.
- 8.41. 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.

8.42. Having assessed the application there is not considered to be any significant harm to visual amenity, the historic environment, neighbouring amenity, highway safety, ecology, flood risk, or any other material considerations. Whilst the benefits of providing one market dwelling, along with limited employment opportunities, are minor benefits associated with the development, there is no degree of harm which would significantly and demonstrably outweigh the identified benefits. As such the application is viewed favourably and subject to necessary conditions is recommended for approval.

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 considered acceptable in principle, and by virtue of the design, siting and scale of the proposal, the development would not result in any harm to, or have any significant adverse impacts on, the character of the site and surrounding area, the setting of the nearby listed building, and the privacy or residential amenities of the occupiers of any neighbouring dwellings. The proposal would provide safe and suitable access and acceptable off-street parking and turning facilities and would not lead to any flood risk or ecological harm.

10.2. The proposed development is therefore considered to be in general accordance with the principles of Policies DM1, DM4, DM6, DM7, DM8 DM10, DM11, DM12, DM15, DM17 and DM18 of the adopted SADMP, the general principles of the Council's adopted Good Design Guide and the general principles of the local highway authority design guidance and is therefore recommended for approval subject to conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

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

11.3 **Conditions and Reasons**

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

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

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

- Site Location Plan (Rev A) – received 6th March 2024
- Proposed Site Layout (Rev A) – received 6th March 2024
- Proposed Elevations and Floor Plans Rev A) - 6th March 2024

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 above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Additionally, prior to the commencement of development above foundation level, details outlining:

- The window and door header and cill treatments
- The style, colour and manufacturer of windows and doors

Shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with these approved details.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and the conservation of historic and architectural interest, in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with Andrew Large Surveyors Ltd Proposed Site Layout. Thereafter the onsite parking (and turning) provision shall be kept available for such use(s) in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2023).

5. No development shall take place until a scheme for treatment of the Public Footpath (Footpath from Main Street to Odstone Hall, Shackerstone) has been submitted to and approved in writing by the Local Planning Authority. A scheme shall cover management during construction, including any proposed temporary routes; and once the work is completed, restoration of the footpath surface as required.

Reason: To protect and enhance Public Rights of Way and access in accordance with Paragraph 104 of the National Planning Policy Framework 2023.

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

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

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

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

8. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

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

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

10. 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).

11.4 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. In relation to conditions 9 and 10, 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.
3. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
4. In relation to conditions 8 and 9, 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.
5. Any proposed access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved

outlet (See Environment Agency guidance on the permeable surfacing of front gardens).

6. The distance from the dwelling to the highway boundary is considerable. Please note: waste collection services are from the boundary to the public highway. Please ensure adequate space on properties to store the various containers and also space at the kerbside (where the properties meet the public highway) for the placement of the containers on the collection day. It would be advisable to include an area near to the roadside for safe placement of the various containers on collection day. This will then keep the access clear to allow vehicular access. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins will be brought to the collection point.
7.
 - a) Prior to construction, measures should be taken to ensure that users of the public access route are not exposed to any elements of danger associated with construction works.
 - b) The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may be an offence under the Highways Act 1980.
 - c) The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
 - d) If the developer requires a Right of Way to be temporarily diverted, 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.
 - e) Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
 - f) No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it is an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.

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**Planning Committee 30th July 2024
Report of the Head of Planning**

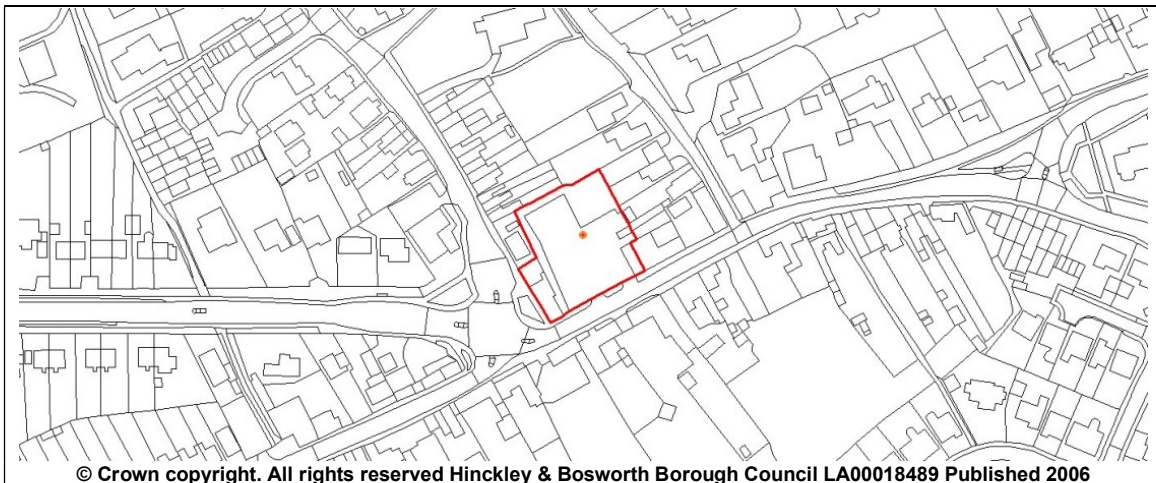


Hinckley & Bosworth
Borough Council

Planning Ref: 23/00711/FUL
Applicant: EVERARDS BREWERY & THE CENTRAL ENGLAND COOPERATIVE
Ward: Newbold Verdon with Desford & Peckleton

Site: The Blue Bell Inn 39 High Street Desford

Proposal: Change of use from Café (Class E (b)) and residential (Class C3) to convenience foodstore (Class E (a)), construction of single storey side extension, two storey and single storey rear extension (following the demolition of existing single-storey element to rear of 37 High Street/2A Main Street and store to rear of public house) with associated landscaping and other works



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1. Application 23/00711/FUL was deferred on Planning Committee on 7th May 2024 pending further investigative works in relation to highways and neighbouring amenity. The Applicant has since provided additional information as follows:
 - Noise Assessment Update dated 04 July 2024, prepared by Sharps Redmore;
 - Transport Note, prepared by ADL Traffic and Highways;
 - Historic England Pre-Application Advice; and
 - Proposed Roof Plan, drawing no. 006 rev. P4

Highways and Parking

- 1.1. After the first consultation comments received a response was prepared and submitted to the Council that included a Stage 1 Road Safety Audit, revised personal injury collision data, a re-assessment of TRICS data, PICADY junction capacity assessment, clarification on existing floor areas for the Bluebell Inn public house, and track analysis for a 12m rigid vehicle.
- 1.2. Following further consultations with LCC Highways, a re-designed access with a formal bell-mouth radii and dropped kerb together with tactile paving, included COVID uplift numbers and committed development traffic captured via revised

capacity assessments, and a revised Car Park and Delivery Management Plan including details on deliveries.

- 1.3. LCC responded to the information provided on 04 March 2024 and confirmed that there would be no highways objection subject to planning conditions, which have subsequently been included within the Committee Report for the application.
- 1.4. The work undertaken has demonstrated that, based on the revised capacity assessment, the proposals would not generate any queues or delays at the site access nor the surrounding network. The Stage 1 Road Safety Audit has demonstrated the acceptability of the design of the proposed access arrangements into the site and that the proposed pedestrian crossing point on High Street is acceptable with regards to pedestrian safety. The Car Parking and Delivery Management Plan will control the number of deliveries and visitors to and from the site, ensuring that traffic can safely enter and exit the site and that the number of deliveries per day can be managed for the purposes of highways safety and residential amenity.
- 1.5. The proposals will provide dedicated on-site parking, with the parking accumulation study demonstrating that the level of parking proposed on-site is satisfactory and will not require visitors to park on the highway network near to the site. The proposals are therefore in full accordance with Policy DM18 of the SADMP.
- 1.6. The proposals also allow for dedicated vehicle deliveries on-site. This will remove the requirement for delivery vehicles to wait on the adjacent highway or on the pavement, as per the current delivery arrangements for both the Newbold Road and Main Street stores.
- 1.7. LCC Highways were consulted on the latest transport note and maintain that they have no objections to the proposal subject to conditions.

Impact on residential amenity

- 1.8. Further to the request of Members at the 7th May Planning Committee regarding the potential impact of the proposals upon the amenity of the neighbouring property at 2 Main Street, the applicant instructed a Noise Assessment Update.
- 1.9. The update confirms that the plant to be installed will not exceed 34dB LA90 at night and 44 dB LA90 during the day at the boundary with 2 Main Street. This is based on typical background levels measured for the relevant period and demonstrates that the rating level of noise emitted by all fixed plant shall not exceed the representative background level, as determined at the nearest noise sensitive premises.
- 1.10. Furthermore, the applicant has provided an updated roof plan, which confirms that the plant that will be generating the noise has been relocated on the flat roof, further away from the neighbouring residential property than the previous arrangement.
- 1.11. The proposed delivery times have also been restricted to 0800 - 1800 Monday to Saturday, and 1000 - 1600 on Sunday. No evening deliveries are proposed. The previously proposed delivery hours were 0700 – 1800, 7 days per week.
- 1.12. The delivery bay remains in the original location after no feasible alternative was agreed upon.

- 1.13. HBBC Environmental Health were consulted on the latest revisions and confirmed that they have no objections and no further comments to add.

2. Recommendations

2.1. Grant planning permission subject to:

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

3. Planning Application Description

3.1. The application relates to a change of use and demolition/extensions on Land at The Blue Bell Inn (39 High Street) comprising its associated car park, and No's 37 High Street, Desford, Leicester.

3.2. The proposals comprise of the following elements;

- Demolition of existing single-storey element to rear of 37 High Street/2A Main Street;
- Demolition of store to rear of public house;
- Change of use from Café (Class E(b)) and Residential (Class C3 [37 High Street]) to Convenience Foodstore (Class E(a));
- Erection of single-storey side extension to 37 High Street/2A Main Street;
- Erection of two-storey rear and single-storey rear extensions to 37 High Street/2A Main Street;
- Alterations to the access, existing car park [increase from 33 to 38 parking spaces] and beer garden, and
- Public realm and landscaping

3.3. The proposed convenience store will have a gross area of 564m², with a sales area of 276m². This is below the threshold of 280m² established by the Sunday Trading Legislation and will therefore be able to trade on an unrestricted basis on Sundays as it constitutes a "small shop". The associated ground floor back of house area extends to 120m².

3.4. A single-storey (originally proposed to be two-storey) side extension is proposed to the northern elevation of 2A Main Street, with a single-storey rear extension proposed across the width of both buildings. This extension would house the delivery area, storage, and staff facilities.

3.5. The existing accesses would be utilised off High Street, taken from two locations along the southern boundary, providing direct access to the car park for the Blue Bell Inn which would be shared with the proposed store, with a total of 38 spaces including two disabled bays and cycle parking. The initial proposal has been amended to reduce the scale of the proposed two-storey side extension of 37 High Street to single storey, as well as removing the coloured vinyl advertising boards from the proposed shop frontages.

3.6. The application is accompanied by an Archaeological Desk Based Assessment, Arboricultural Impact Assessment, Biodiversity Net Gain Assessment, Design and Access Statement, Environmental Noise Report, Further Bat Roost Activity Survey,

Heritage Statement, Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment, and a Transport Statement.

3.7. Following deferral of the application at Planning Committee on 7th May 2024, The Applicant has since provided additional information as follows:

- Noise Assessment Update dated 04 July 2024, prepared by Sharps Redmore;
- Transport Note, prepared by ADL Traffic and Highways;
- Historic England Pre-Application Advice; and
- Proposed Roof Plan, drawing no. 006 rev. P4

4. Description of the Site and Surrounding Area

4.1. The application site comprises the car park to the west of The Blue Bell Inn Public House and associated store, and a pair of semi-detached properties at 37 High Street and 2A Main Street, 2A currently Class E(b) café (“The Food Room”).

4.2. The site is located in a prominent location on the north side of High Street within the settlement boundary of Desford. Desford is a key rural centre relating to Leicester according to Policy 8 of the adopted Core Strategy and High Street is regarded as the historic core of the Desford Conservation Area. The pub has cream painted render walls and red plain clay tiles, and it is opposite a Grade II* Listed Building – (Old Manor House).

4.3. 37 High Street and 2A Main Street are two cottages of a linear plan form, facing the junction of High Street, Main Street and Manor Road, with pitched tiled roofs and a white stucco external finish.

4.4. Residential dwellings lie to the north of the site, with No. 2 Main Street neighbouring 2A and 37 Main Street. The northernmost boundary of the site contains a tree belt which separates the car park/pub garden area from the rear gardens of 4 and 6 Main Street.

5. Relevant Planning History

22/00448/ADV

- Proposed installation of illuminated and non-illuminated signage
- Permitted
- 02.09.2022

19/00162/FUL

- Demolish existing garage, new timber boarding, lean to canopy and sliding door to west elevation, extension of existing kitchen into external courtyard with replacement extraction system and 2 new patio doors to north elevation
- Permitted
- 02.05.2019

15/00623/FUL

- Proposed canopy porch to western side entrance
- Permitted
- 28.07.2015

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. As a result of the publicity 11 objections and one letter in support have been received

during the initial notification period and a subsequent re-notification following amendments to the proposal. A summary of the comments made is below:

Objections:

- Access to the site is obscured and is unsafe for vehicles and pedestrians.
- Increase in traffic in the area.
- Harm to the character of the conservation area and listed building opposite.
- Increase in noise and disturbance for neighbouring residents.
- Insufficient parking provision.
- Brightly coloured advertising should be removed.
- Should be classified as a new development, not change of use as the development is disproportionate to the existing buildings.
- The only café in the village would be lost and is an important community facility.
- Development encourages car use instead of sustainable modes of transport.
- Proposed disabled parking not in compliance with Part M of the Equality Act.
- Increase in air pollution.
- Overbearing, loss of light and overshadowing impact on neighbouring dwelling.
- Design and scale of the development not in keeping with the village.

Support:

- The current location of the Co-op causes serious traffic problems with people illegally parking on double yellow lines.

6. Consultation

6.1. No objection has been received from:

HBBC Street Scene Services (Waste)

HBBC Drainage

HBBC Conservation Officer

LCC Ecology

6.2. Desford Parish Council –

19/10/23:

“The Parish Council support the principle of the development as we recognise that the village has a need for a retail facility in a central location and we acknowledge that this site is the most appropriate and in addition the two smaller outlets will be closing. However, we do still have concerns regarding highways safety which we understand from the representatives that they have engaged an independent specialist highways consultant. They have agreed to share the findings with the Parish Council when available. They have also agreed to review the main street frontage with a more sympathetic stucco finish to blend in. Lastly, they have agreed to rescue the historic front door and retain it and incorporate it and consider more sympathetic displays in the dummy windows”.

14/12/23:

1: *They are surprised that Leicestershire County Council have not asked for a speed survey to demonstrate vehicle speeds, as this would indicate whether the splay out of the access are appropriate. Especially given the concerns regarding visibility. The speed surveys would ascertain the measured speed of vehicles on each approach to the proposed access.*

2: *The Parking Management Plan also suggests that if two delivery vehicles arrive at the same time, one of them will be advised to leave and come back later, however if a second delivery vehicle arrives, then it will not be able to turn around within the site and will have to reverse back out on to High Street. In our view this would be dangerous.*

Following re-consultation (17/04/24): *“Councillors wish to comment that the proposed dropped kerb crossing on High Street is at a dangerous point, so close to the bend in the road.”*

6.3. Leicestershire County Council (Ecology) – Request for bat survey. Provided and considered acceptable.

6.4. LCC Archaeology – No objection subject to condition.
“To ensure that any archaeological remains present are dealt with appropriately, the applicant should provide for an appropriate level of archaeological investigation and recording. This should consist of a programme of archaeological work, to be conducted as an initial stage of the proposed development. It should include an archaeological soil strip of the development area; any exposed archaeological remains should then be planned and appropriately investigated and recorded. In addition, all services and other ground works likely to impact upon archaeological remains should be appropriately investigated and recorded. Provision must be made within the development timetable for archaeologists to be present during these works, to enable the required level of archaeological supervision.”

6.5. Leicestershire County Council (Highways) – No objection subject to conditions.
“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.”

6.6. HBBC Environmental Health (Pollution) –

25/08/2023:

It needs to be noted that the intended use is likely to cause impact from noise on residential premises adjacent to the site and the proposal is quite different from the current use as a small café and pub car park. However, the use is typical for a small village location and so through careful assessment and mitigation and going forward, management of the site, it is possible that the impact will not be significant and so I do not wish to object to the proposal.

However, prior to final comment, I have the following queries on the noise report submitted which require clarification.

The report states that the nearest residential premises is 20m from the delivery area; it is my understanding that 2 Main Street is directly adjacent and so the conclusions will need to be reconsidered. It is stated within the report that a 2m fence is proposed, however, this is not shown on the plan. Based on my comment regarding 2 Main Street, is it being considered to erect a 2m fence along the

property boundary to mitigate the noise? Table 6 details noise levels as LaeqT and then Table 7 shows levels as Laeq1hr. I am concerned that this assessment does not show the true impact from noise as the impact will be lost as a 1hr average.

Regarding deliveries, is the applicant willing to condition the delivery times to 2 07:00-18:00 Mon-Fri, 08:00-13:00 Sat and 10:00-16:00 Sun?

In addition, it needs to be confirmed that there will be no cooking/baking on site. If it is, what means of ventilation are proposed? Finally, no lighting details and assessment of impact from light has been submitted.

6.7. Historic England (pre-application engagement with applicant)

Historic England have considered the proposals in accordance with Legislation, policy and guidance. We do consider that improvements could be made to the application to enhance the character and appearance of the conservation area, as detailed in our advice above.

The suggested improvements include:

- Use of Welsh late roof tiles
- Consideration of the scale of the extensions
- Landscaping to reduce extent of hardstanding.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM21: Locating Sustainable Town Centre Uses
- Policy DM22: Vitalising District, Local and Neighbourhood Centres
- Policy DM23: High Quality Shop Fronts and Advertisements
- Policy DM25: Community Facilities

7.3. Desford Neighbourhood Plan (May 2021)

- Policy H1: Settlement Boundary
- Policy H7: Housing Design
- Policy ENV3: Biodiversity General
- Policy ENV5: Local Heritage Assets
- Policy F1: Retention of Existing Community Facilities
- Policy F2: New or Improved Community Facilities

- Policy T1: Traffic Management
- Policy T3: Electric Vehicles

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (Dec 2023)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Leicestershire Highways Design Guide
- Good Design Guide Supplementary Planning Document
- Desford Conservation Area Appraisal (DCAA)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon the Conservation Area and heritage assets
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Ecology
- Other matters

Assessment against strategic planning policies

8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the development plan is the starting point for decision making. The NPPF is a material consideration in determining applications. The development plan in this instance consists of the Site Allocations and Development Management Policies (SADMP) DPD (2016) and the Core Strategy (2009).

8.3. Policy DM1 of the adopted SADMP adopts a presumption in favour of sustainable development with planning applications that accord with the policies in the Development Plan and should be approved unless material considerations indicate otherwise.

8.4. Policy 7 of the Core Strategy aims to ensure that rural centres can meet the needs of their residents:

- "Support new retail development to meet local need within defined local centre boundaries in the Key Rural Centres providing it will have no detrimental impact on the Hinckley town centre; and

- Resist the loss of local shops and facilities in Key Rural Centres unless it is demonstrated that the business or facilities can no longer operate in a viable manner. Initiatives to establish local stores and facilities will be supported."

8.5. Policy 8 of the Core Strategy aims to support local services in Desford, including supporting additional employment provision to meet local needs, and support traffic management measures and additional car parking.

8.6. The site is located within the village centre where High Street and Main Street meet, and is therefore considered to be sustainable, in accordance with Policy 7 of the Core Strategy. Policy 7 specifically supports retail development within the defined

local centres of Key Rural Service Centres provided that there is no retail impact upon Hinckley Town Centre.

8.7. Policy DM21 requires a Retail Impact Assessment to be submitted for applications where over 2,500sq.m of floorspace is proposed for such uses outside of Hinckley Town Centre. The proposed development does not exceed this threshold, and therefore does not conflict with this objective of Policy DM21.

8.8. Policy F1 of the Desford Neighbourhood Plan (DNP) states that:

Desford Parish Council in conjunction with relevant bodies will:

a) Work with Sport in Desford to identify extra land for sport and recreation within the parish, with a view to purchase and to develop for further sports and recreation;

b) Renew efforts to contact the owner of Kirby Grange with a view to redeveloping the school building and eradicating the potential danger for some form of community use;

c) Make positive efforts to retain remaining Public Houses and restaurants and to register local pubs as assets of community value;

d) Strive to achieve enhancements to the present network of walking routes in the Parish including the provision of kissing gates to replace stiles wherever possible and to provide new cycle paths to link in with existing local cycle networks;

e) Update the community directory of local facilities and community groups;

f) Work with Leicestershire Highways to maintain and where possible improve the bus service through Desford.

8.9. The existing Co-op stores on both High Street and Newbold Road are to be consolidated into the proposed larger store, there is policy support for this consolidation under Policy F1 of the Neighbourhood Plan, and under Policy DM22 of the SADMP.

8.10. The applicant states within their planning statement that there are no suitable alternative existing premises within the Neighbourhood Centre that could accommodate the proposals. Furthermore, the existing Cooperative stores within Desford are stated to be inadequate for the present-day retail operations of the Cooperative, with both stores de-facto competing against each other despite being in common ownership. Additionally, due to the nature of the High Street Neighbourhood Centre boundary drawn, the only site to be considered as part of the sequential test for this proposal would be the Library (a designated Community Facility under Policy DM25 of the SADMP), and is not a feasible or acceptable site for redevelopment. The loss of the library community facility would not be supported by Policy 7 of the Core Strategy, Policy Dm25 of the SADMP, or Policy F1 of the Desford Neighbourhood Plan. At the time of the submission, the Applicant has expressed that no other commercial properties were available, nor of a suitable size to reasonably accommodate the proposals within Desford. Whilst the possible loss of the café and two smaller stores is regrettable, there is potential for a new café to replace one of the two potentially vacated Co-op stores in the future.

8.11. The proposals will be effectively replacing the Main Street Cooperative store, with the other existing store on Newbold Road, which is approximately 380m from the nearest Neighbourhood Centre of High Street. The proposals would therefore not

result in the loss of any Class A1 or A2 units (now Class E) within the Neighbourhood Centre, in accordance with Policy DM22.

- 8.12. Policy DM22 states that retail proposals will be supported where the retail frontage is retained and / or enhanced and would not result in a break in the continuous retail frontage. The existing café is an isolated outlet within the street scene and the High Street elevation of the proposals (the north-western elevation) have been designed to resemble a Cooperative store of high design quality. A faux entrance design has also been incorporated into the single storey extension, retaining and enhancing the understanding of the Desford Neighbourhood Centre as the primary retail location within the village.
- 8.13. The proposed development is further supported by paragraph 90 of the Framework, which states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management, and adaptation. The proposed development is for the provision of a new, larger convenience food store that will provide a larger net floorspace compared to the existing two smaller stores and will consolidate their offerings; the existing two stores have a combined sales floorspace of 196sq.m, whilst the proposed store has a sales floorspace of 276sq.m.
- 8.14. In summary, the proposal is considered to accord with Policies DM1, DM21, DM22, DM25 of the SADMP, Policies F1 and F2 of the DNP, and Paragraph 90 of the Framework, and is therefore considered acceptable in principle.

Design and impact upon the character of the area

- 8.15. Policy DM10 requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features.
- 8.16. Policy DM23 of the SADMP is specifically concerned with shopfronts and advertisements, and states that new and refurbished shopfronts will be approved where:
- a) *“They reflect the local style and materials of the host building and immediate area; and*
 - b) *The fascia is of an appropriate scale in relation to the shop front and upper floors; and*
 - c) *Signage illumination is of an acceptable luminosity and does not lead to obtrusive light in the form of sky glow, glare or light intrusion; and*
 - d) *Shop security features are appropriately designed to complement the host building and street scene. Shutters and grilles must allow for a degree of internal visibility; and*
 - e) *The design of blinds and canopies leave the street scene uncluttered, particularly out of hours; and*
 - f) *The main public entrance adds interest to the street scene and is on a human scale; and*
 - g) *Additional industrial devices, such as air conditioning and/or filtration units, are integrated with the design and placed in the most visually unobtrusive location, and*

are away from the public and neighbouring properties which may be affected by the noise and extracted fumes. Such devices may be situated on the primary elevation only where there is no other reasonable alternative”.

- 8.17. Policy H7 of the DNP states that new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated, particularly within the Conservation Area. Care should be taken to ensure that the development does not disrupt the visual amenities of the street scene and impact negatively on any significant wider landscape views.
- 8.18. The proposed development is for the restoration and change of use of the existing buildings on site (37 High Street and 2A Main Street), alongside extensions to the side and rear to provide a functional level of convenience retail floorspace at ground floor level. The proposed extensions have been sympathetically designed, with the external works intended to reflect that of the historic form and appearance of other buildings within the Conservation Area. The two-storey rear extension proposed to the rear of these buildings incorporates retail floor space and will effectively reinstate the historic sense of enclosure along this stretch of High Street, recognised by Historic England and HBBC's Conservation Officer. The overall scale of the proposed extensions to the rear are large but are considered proportionate in terms of the space required and available space in the existing hardstanding car park area.
- 8.19. The side extension to the north of 2A Main Street follows the linear plan form of 37 High Street/2A Main Street and given its single storey height is subservient in scale to the main building. Rather than having a dual pitched roof, which is more prevalent in the area, the hipped roof form has been proposed in response to residential amenity concerns, and is considered to reflect the roof form of the larger store extension whilst also reducing the mass of the extension and allowing for the built form of 37 High Street/2A Main Street to remain the dominant presence when viewing the application site from the west. The proposed construction materials of render and slate and detailing of the 'false' windows and door to the extension closely match those on the existing elevations.
- 8.20. It is not clear from the proposed elevations if the existing windows and door to the south-west elevation of 37 High Street and 2A Main Street are to be retained with some form of screening applied to prevent internal views of the store, or if replacement fenestration is proposed. If the application is approved this detail will be confirmed and approval sought as part of a pre-construction materials condition.
- 8.21. The two-storey rear extension to 37 High Street would run parallel to the High Street and closely follows the position of historic built form previously on the site and would reinstate the traditional urban grain and sense of enclosure to a section of the High Street frontage.
- 8.22. The proposed development would also add visual interest with the inclusion of features such as gabled dormers, feature brickwork, mock timber barn doors and wrought iron barn ties to the elevations of the proposed extensions providing contextual features which activate the elevations and introduce high quality design features to the area.
- 8.23. The proposed materials include red brick with appropriate brick detailing, reflecting the predominant building material within the Desford Conservation Area. The existing buildings on-site, 2A High Street and 37 High Street are to be re-rendered, enhancing their appearance within the street scene and Conservation Area. Historic England and the HBBC Conservation Officer have requested high quality

(preferably Welsh slate) roof tiles, therefore all external materials are to be agreed prior to commencement with samples provided by the developer.

- 8.24. In summary, it is considered that the proposed design would have a positive impact on the character of the area and wider street scene. The proposal would therefore comply with Policy DM10 of the SADMP and Policy H7 of the DNP.

Impact upon the conservation area and heritage assets

- 8.25. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses. Section 72 of the Act 1990 places a duty on the local planning authority when determining applications for development which affect a conservation area to pay special attention to the desirability of preserving or enhancing the character and appearance of that area.
- 8.26. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 of the NPPF require great weight to be given to the conservation of a designated heritage asset 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.
- 8.27. Policy DM11 of the adopted SADMP seeks to protect, conserve and enhance the historic environment. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate an understanding of the significance of the heritage asset and its setting, the impact of the proposal on the significance of the asset and its setting, how the benefits of the proposal will outweigh any harm caused.
- 8.28. Policy DM12 states that development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration of important features identified in the relevant Conservation Area Appraisal and Management Plan, including the retention of key spaces, preservation or enhancement of key views and vistas, historic street pattern and plan form where feasible, the use of natural building materials and appropriate boundary treatments. Proposals that affect 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.
- 8.29. A detailed Heritage Statement has been submitted to accompany the application which ensures the significance of affected heritage assets is understood, and therefore this component of Policy DM11 and the requirements of paragraph 200 of the NPPF have been met. HBBCs Conservation Officer has been consulted and has no objections to the proposals subject to conditions. Their detailed comments have been incorporated into this section of the Officer report.
- 8.30. The DCAA identifies a view to be protected from the High Street over the application site. The importance of the view is not explained in any detail but judging from its direction and the guidance provided within the DCAA, it is assumed the view is deemed to be towards the grade II* listed building the Church of St Martin, which is approximately 100m to the north. The church dates from the late 13th century and has a tall spire making it a visible landmark within the village and its setting. There is a large cluster of vegetation along the northern boundary of the application site and within the gardens of residential properties in between the

public house car park and the church. As a result, the view of the church spire from High Street is not particularly clear when the vegetation is in full leaf, although visibility does increase when the vegetation is not in leaf. When positioned within its wider setting it is considered that the view over the car park does allow for a minor appreciation and understanding of the significance of the church.

- 8.31. The Old Manor House is an early 17th century grade II* listed farmhouse built in red brick in English bond. The property has sandstone ashlar quoins and dressings and a Swithland slate roof. The windows are stone mullioned with square leaded casements that have rectangular ashlar surrounds. To the left is a brick barn that has been converted into a dwelling and to the right, forward of the house, is an early 18th century service block built in Flemish bond. It was a working farm until the 1990's.
- 8.32. The Old Manor House is a particularly important building of more than special interest. It is an imposing, traditional vernacular building that has considerable historic interest due to its age and fabric, and as a high-status house in the village. It also has a degree of architectural interest in its form and internal features. Whilst the significance of the building is not directly impacted by the proposed development, there is the potential for an impact upon its significance resulting from change to its setting. Due to their local heritage interest and contribution towards defining the traditional streetscape of the historic settlement the Blue Bell Inn and 37 High Street/2A Main Street are considered to be a positive presence within the setting of The Old Manor House. As per its neutral contribution to the significance of the conservation area, the open car park is also considered to be neutral presence within the setting of The Old Manor House
- 8.33. The side extension to the north of 2A Main Street follows the linear plan form of 37 High Street/2A Main Street and is subservient in scale to the main building. The proposed replacement 'false' shop front to 2A Main Street has a traditional and historic form and would sit comfortably upon this elevation subject to no over proliferation of advertisements.
- 8.34. The rear 1.5 storey extension follows a linear plan form, limited depth, steeply pitched gable arrangement and construction materials of brick and slate reflect the traditional vernacular built form of the area, whilst its architectural detailing provides the extension with the appearance of a converted rural building, all of which are important characteristics of the conservation area as identified within the DCAA. Given its 1.5 storey height and slight set back from the pavement the extension is also considered to be subservient in scale to 37 High Street.
- 8.35. The extent of the space for car parking and landscaping will be moderately reduced in comparison to the existing arrangement, but it is considered that the volume and use of the space will remain clearly discernible as a functional area serving commercial uses in the historic core of the settlement. The character of the surface and boundary treatments proposed within the landscape masterplan respect the character of the site and the area more generally, but there are considerable opportunities to better define the beer garden area. This could be achieved via a traditional brick wall, (with these being the prevalent boundary treatments of the area), incorporating a cobbled surface treatment close to the entrance to reflect historic surface treatments on the site (see the evidence within the Heritage Statement) whilst allowing for any LCC Highways requirements, and to ensure that the heritage interpretation board is reinstated in a suitable location within the application site. If the application is approved these details should be confirmed and approval sought as part of a pre-construction landscaping condition.
- 8.36. Due to the retention of the space for car parking and a continuation of a wide open frontage across the eastern section of the site the seasonal view of the church from

the High Street (the view to be protected identified within the DCAA) will remain, ensuring that the minor appreciation and understanding of the significance of the grade II* listed Church of St Andrew will be maintained from this position within its wider setting. From the open areas of the application site the fine front elevation and significance of the grade II* listed The Old Manor House could also continue to be appreciated.

- 8.37. In summary it is considered that the scale, siting, design, architectural detailing and proposed construction materials (subject to a planning condition) of the extensions are acceptable and would maintain the character and appearance of the conservation area. The alterations to 37 High Street and 2A Main Street are considered to be acceptable and would ensure that the positive contribution these unlisted buildings of local importance make to the Conservation Area and the setting of the grade II* listed building The Old Manor House would be maintained. The extent, functional character and use of the space for the car park would largely remain as a neutral presence within the Conservation Area and the setting of the Old Manor House, and the surfacing and boundary treatments to this space would generally maintain the character of the area (although some amendments are requested which could be secured with a planning condition). The retention of an open frontage to the eastern section of the application site also ensures that the minor appreciation and understanding of the significance of the grade II* listed Church of St Andrew will be maintained when positioned within its wider setting.
- 8.38. For these reasons it is considered that the proposal would have a neutral impact upon the character and appearance of Desford Conservation Area, thus preserving its significance, and the proposal would be compatible with the significance of the grade II* listed buildings the Church of St Martin and The Old Manor House due to it being an appropriate development within their settings. Consequently, the proposal complies with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duties of Sections 66 and 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.39. Policy DM10 of the adopted SADMP requires that the amenities of the occupiers of proposed developments would not be adversely affected by activities within the vicinity of the site.
- 8.40. Objections have been received expressing concerns regarding unacceptable levels of noise and disturbance that would be created due to the proposed location of the delivery area, which is to be located within a service yard directly adjoining the boundary with No. 2 Main Street to the west.
- 8.41. The applicant has submitted an Environmental Noise Report which concludes that given the existing noise climate and extant use of the site, the proposed store can be developed as outlined within the report without causing significant impact or disturbance to local residents, subject to conditions.
- 8.42. Officers acknowledge that there would be some additional noise and disturbance as a result of the proposed location of the delivery area, and the associated increase in activity (moving trolleys, delivery vans arriving and unloading etc.). Officers asked the applicant to consider re-locating the delivery area, however it was expressed that this would not be feasible due to the layout and orientation of the existing building. It must also be acknowledged that the site is an existing public house and car park that has no restrictions on trading or delivery hours, and that noise from car parking will be no greater than the existing site as the quantum of parking is reduced overall.

- 8.43. HBBC Environmental Health (Pollution) has no objection, and expressed in their consultation responses that:
- “...the intended use is likely to cause impact from noise on residential premises adjacent to the site and the proposal is quite different from the current use as a small café and pub car park. However, the use is typical for a small village location and so through careful assessment and mitigation and going forward, management of the site, it is possible that the impact will not be significant and so I do not wish to object to the proposal.”*
- 8.44. The Officer recommended imposing conditions regarding delivery times to the store, and a scheme for protecting nearby dwellings from noise from the proposed mechanical plant. Additionally, the submitted noise report indicates that a 2m close boarded boundary fence has been included in these calculations to provide in the region of 10dB attenuation. The inclusion of this fence is not clear on the submitted plans, therefore a ‘prior to occupation’ condition has been included to ensure that this fence is installed and maintained in perpetuity to mitigate noise from the proposed development.
- 8.45. Objections were also received regarding overbearing, loss of light and over dominant impacts of the proposed two-storey side extension to 2A Main Street. Following lengthy negotiation and discussion with Officers, the Applicant agreed to reduce the scale of this extension to single storey. This has significantly reduced the prominence of the extension and whilst there would be some degree of additional overbearing impact by virtue of the proximity and height of the side extension, Officers consider that there would be an acceptable relationship between this building and neighbouring 2 Main Street.
- 8.46. Further to the request of Members at the 7th May Planning Committee regarding the potential impact of the proposals upon the amenity of the neighbouring property at 2 Main Street, the applicant instructed a Noise Assessment Update.
- 8.47. The update confirms that the plant to be installed will not exceed 34dB LA90 at night and 44 dB LA90 during the day at the boundary with 2 Main Street. This is based on typical background levels measured for the relevant period and demonstrates that the rating level of noise emitted by all fixed plant shall not exceed the representative background level, as determined at the nearest noise sensitive premises.
- 8.48. Furthermore, the applicant has provided an updated roof plan, which confirms that the plant that will be generating the noise has been relocated on the flat roof, further away from the neighbouring residential property than the previous arrangement.
- 8.49. The proposed delivery times have also been restricted to 0800 - 1800 Monday to Saturday, and 1000 - 1600 on Sunday. No evening deliveries are proposed. The previously proposed delivery hours were 0700 – 1800, 7 days per week.
- 8.50. The delivery bay remains in the original location after no feasible alternative was agreed upon.
- 8.51. HBBC Environmental Health were consulted on the latest revisions and confirmed that they have no objections and no further comments to add.
- 8.52. Overall, it is considered that the development would have an acceptable impact on residential amenity subject to the conditions proposed, in accordance with policy DM10 of the SADMP.

Impact upon highway safety

- 8.53. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the adopted SADMP requires new development to provide an appropriate level of parking provision.
- 8.54. Objections have been received relating to the safety of the existing access points, and the inadequate parking provision proposed as part of this development.
- 8.55. The applicant has submitted a Transport Statement and a subsequent addendum following the initial consultation response from the LHA which requested:
- Road Safety Audit
 - Clarification in respect of PIC data
 - Further consideration of the TRICs trip rates for a cafe and a convenience store
 - A review of the parking accumulation studies following provision of updated trip rates, clarification as to why the public house parking accumulation assessment was not undertaken on a Friday
 - A capacity assessment of the site access and further clarity in respect of how deliveries/ refuse collection would be undertaken for the public house, as well as staff parking.
- 8.56. The LHA notes that the site access is acceptable, whilst also agreeing that the Applicant's submitted data for trip generation is acceptable.
- 8.57. In terms of junction capacity, previously the LHA requested the Applicant apply Covid-19 uplift factors and committed development to the traffic counts, review traffic growth factors and undertake a sensitivity test of live developments. The Applicant has now retrospectively applied for a survey permit and applied Covid-19 uplift factors to the baseline traffic data. In terms of growth factors, the LHA state that increase in vehicle trips is minimal on each arm and below 30 two-way trips. Given the results of the capacity assessment, the LHA does not consider it necessary for a revised capacity assessment to be undertaken under the site-specific circumstances.
- 8.58. The Applicant has also included traffic generated by application reference 22/01227/OUT (120 dwellings, Ashfield Farm, Kirkby Road, Desford), and Application 23/00061/OUT (100 dwellings, Land Adjacent to Lockey Farm Hunts Lane Desford) which have both been allowed at appeal. These have been considered as part of 2025 Proposed Flows scenario. Ratio of Flow to Capacity (RFC) is a term used in Transport Modelling to assess the operation of a junction. The result provides an indication of the likely junction performance, with a value of 1 implying that the demand flow is equal to the capacity. Typically, a value of 0.85 is seen as the practical capacity, with results higher than this more likely to experience queuing or delay.
- 8.59. The RFC of the site access junction is not proposed to exceed 0.85 with the development in place in 2025 in the weekday AM and PM peak scenario, as well as the Saturday weekend peak. In addition, queueing would be minimal at the junction. The LHA is therefore satisfied the site access junction will operate within capacity.

	2025 Total Scenario					
	Weekday AM Peak		Weekday PM Peak		Saturday Peak	
	RFC	Q	RFC	Q	RFC	Q
Site Access – Exit	0.09	0.1	0.12	0.1	0.09	0.1
B582 – Right in	0.04	0.0	0.10	0.2	0.06	0.1

Q: Number of Vehicles Queueing
RFC: Ratio of Flow

Table 1: PICADY Results: Site Access.

- 8.60. The LHA advised that the internal layout and proposed parking arrangement for 38 vehicles is acceptable. The previously requested Car Park & Delivery Management Plan has been provided and is acceptable to the LHA. It is to be adhered to in perpetuity and is included as a planning condition.
- 8.61. The Applicant provided an additional Transport Note following the deferral of the application, with some members requesting further clarification regarding highway safety.
- 8.62. The work undertaken throughout the determination process has demonstrated that, based on the revised capacity assessment, the proposals would not generate any queues or delays at the site access nor the surrounding network. The Stage 1 Road Safety Audit has demonstrated the acceptability of the design of the proposed access arrangements into the site and that the proposed pedestrian crossing point on High Street is acceptable with regards to pedestrian safety. The Car Parking and Delivery Management Plan will control the number of deliveries and visitors to and from the site, ensuring that traffic can safely enter and exit the site and that the number of deliveries per day can be managed for the purposes of highways safety and residential amenity.
- 8.63. The proposals will provide dedicated on-site parking, with the parking accumulation study demonstrating that the level of parking proposed on-site is satisfactory and will not require visitors to park on the highway network near to the site. The proposals are therefore in full accordance with Policy DM18 of the SADMP.
- 8.64. The proposals also allow for dedicated vehicle deliveries on-site. This will remove the requirement for delivery vehicles to wait on the adjacent highway or on the pavement, as per the current delivery arrangements for both the Newbold Road and Main Street stores.
- 8.65. LCC Highways were consulted on the latest transport note and maintain that they have no objections to the proposal subject to conditions.
- 8.66. In summary, the revised proposal would not result in an unsafe access arrangement for pedestrians or vehicles and demonstrates an acceptable parking and turning arrangement in accordance with policies DM17 and DM18 of the SADMP.

Drainage

- 8.67. Policy DM7 of the adopted SADMP requires that development does not create or exacerbate flooding.
- 8.68. The site is located within flood zone 1 indicating there is a low risk of flooding in the area. The application site does not exceed the thresholds requiring a site-specific FRA and is not in an area identified as being a critical drainage area.
- 8.69. HBBC Drainage have no objection to the proposal, therefore, the application is considered to be acceptable in accordance with Policy DM7 of the SADMP.

Ecology

- 8.70. Policy DM6 of the adopted SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation.
- 8.71. The Applicant submitted a Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) and a Bat Emergence and Re-entry survey as part of this proposal.
- 8.72. The County Ecologist states that the PEA and PRA are both sufficient as preliminary assessments. The appraisal identified that the site is generally of low ecological value with the exception of 37 and 2A Main Street having low bat roost potential and therefore further survey effort was recommended. This resulted in the subsequent Bat Emergence and Re-entry surveys. The additional recommended bat survey did not identify an active roost on site and therefore there is no further requirement for mitigation. LCC Ecology therefore have no objections to the proposals subject to conditions and informatives as outlined in the recommendations within the submitted reports (lighting strategy and provision of 2no bird boxes & native species planting).
- 8.73. In summary, the application is in accordance with Policy DM6 of the SADMP subject to conditions.

Other matters

- 8.74. The LPA was made aware of an application to Historic England to add 37 High Street and 2A Main Street to the List of Buildings of Special Architectural or Historic Interest. The applicant engaged with Historic England as part of their pre-application engagement, and the LPA has consulted with HBBCs Conservation Officer throughout the determination of this application, concluding that there are no objections subject to conditions.

9. Equality Implications

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

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

10. Conclusion

- 10.1. The site is located within the settlement boundary, in the centre of Desford and is accessible by a range of transport modes for all residents. The principle of the development is therefore acceptable in accordance with Policies DM1, DM21, DM22, DM25 of the SADMP, Policies F1 and F2 of the DNP, and Paragraph 90 of the Framework, and is therefore considered acceptable in principle.
- 10.2. The proposed design would have a positive impact on the character of the area and wider street scene. The proposal would therefore comply with Policy DM10 of the SADMP and Policy H7 of the DNP.
- 10.3. Furthermore, it is considered that the proposal would have a neutral impact upon the character and appearance Desford Conservation Area, thus preserving its significance, and the proposal would be compatible with the significance of the grade II* listed buildings the Church of St Martin and The Old Manor House due to it being an appropriate development within their settings. The proposal complies with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duties of Sections 66 and 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 10.4. There would be some degree of additional noise and disturbance to neighbouring residences, however it is considered that this would not amount to unacceptable levels of harm to amenity subject to the conditions imposed, therefore the proposed development is considered acceptable and in accordance with policy DM10 of the SADMP.
- 10.5. There is no identified harm to highway safety, ecology / biodiversity, flooding / drainage, or archaeology, and the proposal is therefore in accordance with Policies DM7, DM13, DM17 and DM18 of the SADMP.

11. Recommendation

11.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

11.2. Conditions and Reasons

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

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

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

Site Location Plan – 5166/JP/21/001 Rev P1
Proposed Site Plan - 5166/JP/21/005 – Rev P2
Proposed Elevations – 5166/JP/21/007 – Rev P4
Proposed Floor Plans – 5166/JP/21/006 – Rev P3

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM10, and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

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

4. 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.

5. No part of the development hereby permitted shall be occupied until such time as the access arrangements and off-site works (uncontrolled pedestrian crossing point on High Street) shown on ADL drawing number 5428-06 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, to mitigate the impact of the development in the interests of general highway safety and in accordance with the National Planning Policy Framework (December 2023).

6. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres x 33 metres to the west and 2.4 metres x 43 metres to the east have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (December 2023).

7. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with Corporate Architecture Limited drawing number 5166/JP/21/005 Rev. P2. Thereafter the onsite parking (and turning) provision shall be kept available for such use(s) in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

8. Deliveries to/ from the site and car parking shall be undertaken in accordance with the Car Park & Delivery Management Plan (Reference: ADL/AM/5428/26A, dated January 2024).

Reason: To reduce the possibility of the proposed development leading to large vehicles loading, unloading and turning in the highway, in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

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

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (December 2023).

10. 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 10 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

11. The new vehicular access hereby permitted shall not be used for a period of more than one month from being first brought into use unless any existing vehicular accesses on High Street that become redundant as a result of this proposal have been closed permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety in accordance with the National Planning Policy Framework (December 2023).

12. 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 (December 2023).

13. Notwithstanding the submitted plans, any new / replacement windows and/or doors within 0.5 metres of the Main Street/ High 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 the National Planning Policy Framework (December 2023).

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

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (December 2023).

15. No development shall take place beyond foundation level until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme and new tree and shrub planting will comprise native species. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4, DM10 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

16. Delivery times to proposed store shall be limited to the following times:

Monday – Saturday 8am - 6pm
Sunday – 10am - 4pm

Reason: To ensure that the development does not cause unacceptable levels of noise and disturbance to neighbouring dwellings in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

Reason: To ensure that the development does not cause unacceptable levels of noise and disturbance to neighbouring dwellings in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

18. No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

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

Reason: To ensure satisfactory archaeological investigation and recording in accordance with Policy DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

19. Within 3 months of the first occupation of the development hereby approved, the Main Street and Newbold Road Co-op stores are to be vacated and made available for alternative retailers to occupy.

Reason: To ensure that neighbourhood centres are retained and enhanced in accordance with Policy DM22 of the Site Allocations and Development Management Policies Development Plan Document (2016).

20. Prior to first use of the development hereby approved a low impact lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on site prior to first use of the development and retained as such thereafter.

Reason: In the interests of the amenity of neighbouring dwellings and to ensure that overspill lighting does not harm roosting, foraging or commuting habitats adjacent to the site, in accordance with Policies DM6 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

21. Prior to the first occupation of the dwelling hereby approved, details regarding the location and specification of:

- 2 x bird boxes to be incorporated on or within the building/extension;

shall be submitted to and approved in writing by the local planning authority. This shall include photos showing the boxes in situ.

Reason: To ensure that the development makes adequate provision for enhancements to the habitats of protected species 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.

11.3. Notes to Applicant

- 1) The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
- 2) Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
- 3) Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
- 4) To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
- 5) 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>
- 6) Shrub clearance or pruning should be undertaken outside the period of 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the vegetation should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.
- 7) In the unlikely event that a bat or evidence of bats is discovered during the development all work must stop and a bat licensed ecologist contacted for further advice.
- 8) All businesses have a duty of care to ensure that any waste produced is handled safely and within the law. All waste produced by a business including (but not limited to) paper, cardboard, cans, retail packaging, and food wrappers/waste, is commercial waste. For this reason, it legally has to be discarded in a certain way via a trade waste service or transfer station and cannot be disposed of through the residential service.

- 9) Bins should be maintained and stored so that they don't cause problems to neighbouring premises due to smells and should be stored correctly in a suitable container which needs to be closed or lidded.
- 10) Operators should arrange their own business/trade waste collection service. If you give your waste to someone else you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely.
- 11) As part of the hard and soft landscaping scheme, it is requested that the details incorporate a brick wall around the beer garden area, cobbled surface materials where possible within the site, and the reinstatement of the heritage interpretation panel currently in situ.

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Planning Committee 30th July 2024
Report of the Head of Planning

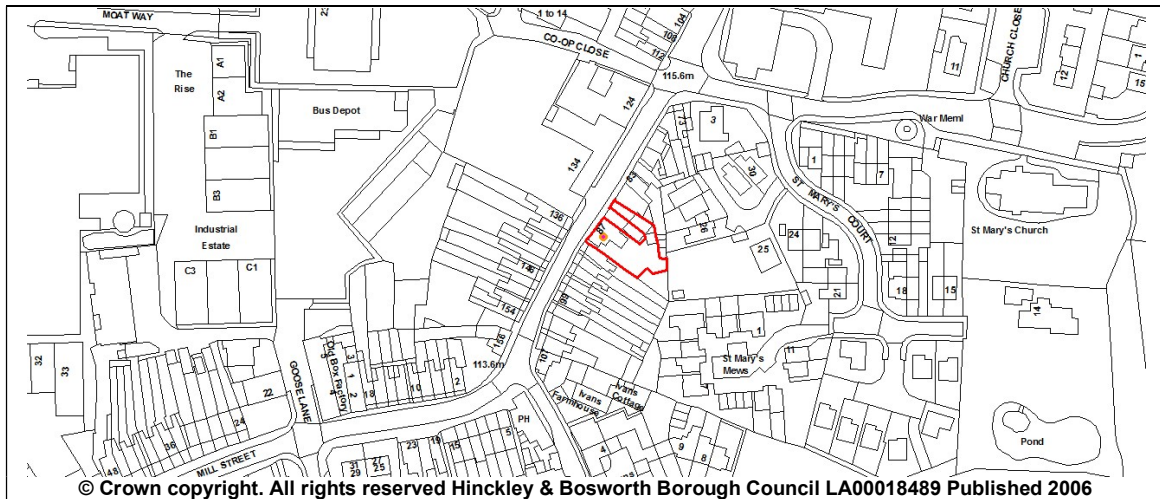
Planning Ref: 24/00476/FUL
Applicant: Mr Hussein Essajee
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: 87B And 87C High Street Barwell

Proposal: Change of use from two dwellinghouses Class C3 to Children's Care Home Class 2



1. Recommendations

1.1. Grant planning permission subject to:

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

2. Planning Application Description

2.1. This planning application seeks full planning permission for the change of use of two dwellinghouses (Use Class C3) into a children's care home (Use Class C2) at 87B and 87C High Street, Barwell. No external alterations are proposed to the application site and the development retains two off-street parking spaces in total for the use.

2.2. The property will provide care for four children under the age of 18 and there will be at least one support worker and one team leader at the premises during the day, and one support worker overnight. Visiting hours shall be between 9 AM and 6 PM and any visits outside of these shall be pre-arranged by the management team. The application makes clear though that staffing levels will depend on the needs of the service users.

-
- 2.3. The development is exempt from biodiversity net gain because it does not impact a priority habitat, nor 25sqm of on-site habitat.

3. Description of the Site and the Surrounding Area

- 3.1. The 688sqm application site currently comprises two Use Class C3 residential properties, 87B and 87C High Street to the southwest of, but within, the identified settlement boundary of Barwell and the Barwell High Street Conservation Area. The application site is on the southern side of High Street, which is an adopted and classified 'C' road that is subject to a 30mph speed limit.
- 3.2. The application site features two two-storey, two-bedroom, terrace and terrace-end residential properties that were constructed in 2023 after receiving planning permission alongside two additional two-storey, two-bedroom, terrace dwellings via application 19/00049/FUL.
- 3.3. The wider area is predominantly residential and characterised by two-storey, terraced, residential properties, but there is evidence of commercial uses opposite the site including a convenience store, an Indian restaurant, and an industrial chemicals wholesaler.

4. Relevant Planning History

4.1 19/00049/FUL

- Demolition of existing buildings and erection of 4 dwellings (Revised Scheme)
- Permitted
- 04.07.2019

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 A Borough Councillor called the application into Planning Committee due to the scheme's impact on neighbouring residential amenity, the safety of future occupants, and insufficient off-street parking provision.
- 5.3 Three members of the public has objected to this planning application for the following reasons:
- Damage to neighbouring properties.
 - Harm to Barwell High Street Conservation Area.
 - Harm to neighbouring residential amenity.
 - Inappropriate location for the development of a children's care home.
 - Inappropriate location for vulnerable children.
 - Inappropriate location due to it being too close to a primary school.

-
- Inappropriate location due to its proximity to a public house.
 - Increased anti-social behaviour.
 - Insufficient private outdoor amenity space.
 - Concerns regarding the management of the children.
 - Insufficient parking.
 - Staffing concerns.
 - There are already too many youths in Barwell.

The Case Officer notes that Barwell Infant School is within 700m of the application site.

5.4 No further responses have been received.

6. Consultation

6.1 Barwell Parish Council have objected to the development due to highway safety and insufficient parking concerns, and the scheme's harm to the character of the area.

6.2 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Conservation Officer
- HBBC's Drainage Officer
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer
- Local Highway Authority (LHA) (subject to conditions)

6.3 Leicestershire County Council (LCC) as Lead Local Flood Authority (LLFA) did not comment on the planning application.

6.4 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 3: Development in Barwell

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- 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 Earl Shilton and Barwell Area Action Plan 2006 – 2026 (ESBAAP) (2014):
- Policy 22: Development and Design
- 7.4 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (December 2023)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.5 Other Relevant Guidance:
- Barwell High Street Conservation Appraisal (2010)
 - Good Design Guide (2020)
 - Leicestershire Highway Design Guide (LHDG) (2022)
 - Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

- 8.1. The key issues in respect of this application are therefore:
- Principle of development
 - Design and impact upon the character of the area and the historic environment
 - Impact upon residential amenity
 - Impact upon parking provision and highway safety

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.
- 8.3 The current Development Plan consists of the adopted Core Strategy, the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP), and the Earl Shilton and Barwell Area Action Plan (ESBAAP). In accordance with Paragraph 225 of the NPPF, due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 8.4 Policy DM17(b) of the SADMP requires development proposals to be located where the need to travel will be minimised, and the use of sustainable transport modes can be maximised.
- 8.5 The development is located in a sustainable location within the identified settlement boundary of Barwell. It is considered appropriate that children that are in need of care are provided with that care in small facilities such as this rather than being

looked after in large institutions remote from a local community. Therefore, the development is acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area and the Historic Environment

- 8.6 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.
- 8.7 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.8 Policy 22(b) and (c) of the ESBAAP require developments to ensure that there is no detriment to the character or appearance of the host building or the surrounding and that that the siting and density of the proposal respects the character and layout of the area respectively.
- 8.9 Whilst the development changes the use of the property from Use Class C3 to Use Class C2, it is not considered that the change of use of two residential properties to one residential institution of the same capacity is likely to result in any significant adverse impacts to character of the surrounding area.
- 8.10 There are no external changes proposed to 87B and 87C High Street, Barwell. Therefore, the development is considered to have a neutral impact upon the character of the area and the Barwell High Street Conservation Area, which subsequently preserves its character, appearance, and thus significance. Given the above, the development complies with Policies DM10, DM11, and DM12 of the SADMP.

Impact upon Residential Amenity

- 8.11 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.
- 8.12 Policy 22 of the ESBAAP requires development to ensure that it does not adversely affect the privacy and amenity of nearby residents, and that the activities in the vicinity of the site do not adversely affect the amenity of the occupiers of the proposed scheme.
- 8.13 No amendments are made to the external appearance and outlook of the existing structures. Therefore, the development does not increase any potential impacts of

overlooking, loss of light, loss of privacy, or any overbearing impacts to neighbouring residential properties.

- 8.14 The application site also benefits from planning permission for a residential use, and therefore the development is unlikely to be adversely affected by activities in the vicinity of the site.
- 8.15 Whilst the proposal includes an additional bedroom for a member of staff, the proposal only results in four children and one member of staff being permanently based at the site at any time. Therefore, the proposed capacity of the development is likely to be less than the capacity of the structures' existing Use Class C3 uses, which can collectively accommodate up to eight permanent residents in their current form. In light of the existing use of the site, the development is not considered to result in any significant adverse impacts to neighbouring residential amenity as a result of noise pollution or light pollution.
- 8.16 In response to the concerns raised by members of the public, the Applicant advised that the proposal is for children with special educational needs who require support with day-to-day living. As a result, these children will only leave the premises when they are accompanied by an adult for purposes such as attending school, participating in sports and leisure activities, and other general everyday activities such as shopping.
- 8.17 The Applicant also raised the fact that any concerns regarding staffing levels and the general management of the property are not dealt with by the planning process and are controlled via other public bodies such as Ofsted and the local Social Care Services.
- 8.18 The two structures feature a total private outdoor amenity area that is 6.6m in depth with a total footprint of 69.5sqm. This is less than the minimum private outdoor amenity standards detailed within the Good Design Guide for two separate two-bedroom properties and one four-bedroom home.
- 8.19 However, this outdoor amenity area was approved via planning application 19/00049/FUL and it is noted that Boston Park is 500m from the application site. Therefore, the under provision in private outdoor amenity space is not considered to result in a significant adverse impact to the residential amenity of the future occupants of the scheme in these site-specific circumstances.
- 8.20 By virtue of these factors, the proposal is not considered to result in any significant adverse impacts to the residential amenity of neighbouring residents, nor the future occupiers of the scheme in accordance with Policy DM10 of the SADMP and Policy 22 of the ESBAAP.

Impact upon Parking Provision and Highway Safety

- 8.21 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and

that the residual cumulative impacts of development on the transport network are not severe. 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)).

- 8.22 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.23 The site is served by an existing dropped kerb access that was approved under planning application 19/00049/FUL. This access has been reviewed by the Local Highway Authority (LHA) who have confirmed that it is in accordance with Figure DG17 of Part 3 of the LHDG and is therefore suitable to serve the proposed change of use.
- 8.24 There have been three Personal Injury Collisions (PICs) that have been recorded on High Street within the last five years. The LHA have considered the circumstances of these PICs, and it does not consider that the development is likely to exacerbate the likelihood of further PICs occurring.
- 8.25 For Use Class C2 properties, the Highway Requirements Part 4 of the LHDG requires one off-street vehicular parking space per three-bedrooms, plus one additional space for each staff member on site. In light of this, the LHA consider the development to require one additional off-street vehicular parking space.
- 8.26 Notwithstanding this, in light of the existing approved use of the site, the nature of the proposed development, and the existing parking restrictions on High Street, the LHA do not consider the shortage of one parking space to lead to an increase in indiscriminate parking in the vicinity of the site in these specific circumstances. Whilst the depth of the two off-street parking spaces is substandard within the submitted plans, it is considered that an additional depth of 0.5m for each space can be achieved on site.
- 8.27 By virtue of these factors, the proposal does not create an unacceptable impact on highway safety or the road network in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

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

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

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

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

10. Conclusion

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

11. Recommendation

11.1 **Grant planning permission** subject to:

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

11.2 Conditions and Reasons

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

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

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Existing Layout and Elevations 141-01 (submitted: 15.05.2024)
 - Proposed Layout and Elevations 141-02A (submitted: 15.05.2024)
 - Proposed Site Location and Block Plan 131-03A (submitted: 01.07.2024)

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

3. The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with the Proposed Site Location and Block Plan 131-03A (submitted: 01.07.2024). Thereafter, the onsite parking provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

a. **Notes to Applicant:**

1. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway and do not travel along, nor collect from private roads or driveways. Please refer to the policies within the Wheeled Bin and Container Policy (updated March 2018). Please include an area near the roadside for the safe placement of the various containers on collection day. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point.

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Planning Committee 30th July 2024
Report of the Head of Planning

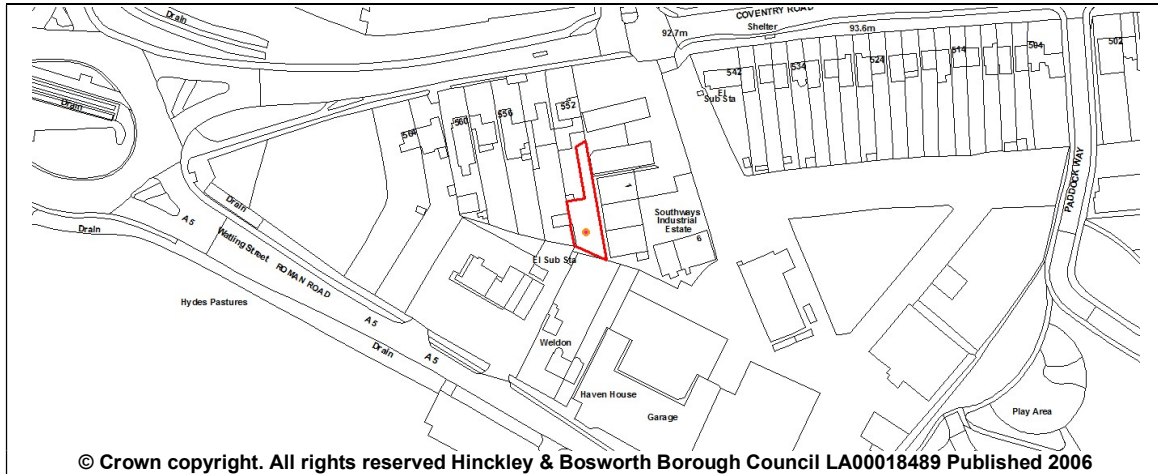
Planning Ref: 24/00428/FUL
Applicant: Mr John Williams
Ward: Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Site: 552 Coventry Road Hinckley Leicestershire LE10 0NJ

Change of use of part of the garden (Use Class C3) to accommodate storage of skips (Use Class B8).



1. Recommendations

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

2. Planning application description

- 2.1. The application seeks a retrospective full planning permission for a change of use of garden land (C3) to accommodate storage of skips (B8). The site currently is being used to store skips for Leicestershire Skips Hire which has the same ownership as TF Car Sales which has operated from industrial premises adjacent to 552 Coventry Road for some time. The site is demarcated by fencing and a wall from the dwellings at 552 and 554 Coventry Road. The change of use does not involve any construction work or physical change to the site.
- 2.2. Historic aerial imagery shows that in December 1999 the site was part of the garden of 552 Coventry Road but that by July 2006 it had been fenced off from the remainder of the garden with access being taken into the site from the adjacent small industrial estate and was being used for the parking or storage of vehicles. This use appears to have continued until recently when the site began to be used for the storage of skips.
- 2.3. The business operator has stated that the use of the site does not and will not include the storage overnight of waste material unless the skip is to be taken away the next day. The operator states that the skip lorry only reverses into the site once a day on returning to the site and therefore there is minimal noise generated and the land is strictly skip storage use only. The business operator has also stated that the skips stored on the site are for emergency use only and that the business use involves the collection of skips from across the local area, emptying them and then

dropping them off at new addressed. The operator has also agreed that the larger vehicles currently also stored on the site can be removed if necessary.

3. Description of the site and surrounding area

- 3.1. The application site covers a 365 square metre plot size to the rear (south) of 552 Coventry Road, which is approximately 70% of the total garden size. The plot in question measures 43 metres at its longest (east of the site) and 21 metres on the other side (west) bordering residential properties. The land originally formed part of the garden of 552 Coventry Road and a garden of at least 20m in depth and 7m in width is retained for that dwelling. The land has clearly been used in connection with the adjacent industrial premises though for many years. The site is located within the urban settlement boundary of Hinckley and in a mixed residential area (to the west of the site), with some industrial and employment uses(Harrowbrook Tyres/Southway Industrial Estate) to the north, south and east of the site. Access to the site is through Harrowbrook MOT Centre which borders the site to the east.
- 3.2. During the officer site visit, it was identified that that vehicles are also stored on the site.

4. Relevant planning history

89/00441/4

- Change of use from dwelling to residential home for 19 elderly persons
- Refused
- 23.05.1989

There has been no planning application submitted for the change of use of the site from garden to the storage of vehicles. An enforcement complaint was received in 2011 regarding excessive use of the site for the storage of vehicles and the owner (who remains the owner of the land now and who owns 552 Coventry Road) was advised to significantly reduce the number of vehicles stored on the site to personal vehicles only and to cease use of the site by the adjacent industrial premises. That occurred and no further enforcement complaints were made until the site started to be used for the storage of skips. It is clear from the enforcement file that the site remained in use in connection with the dwelling at 552 Coventry Road and not in connection with the industrial premises despite the changed access arrangements.

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. Six comments objecting to the application have been received as a result of the public consultation. Issues raised include:
- Noise from lorries
 - Storage of rubbish, attracting vermin and smell
 - Skips are higher than surrounding fence
 - Impact to gardens and privacy of neighbours
 - Inappropriate use of residential garden land
 - De-valuing surrounding properties (*Officer Comment – this is not a material planning consideration*)
 - Not safe for people and dogs
- 5.3. The number of objections received requires that the application be determined at Committee. The application has also been called in to Committee decision by ward

member Councillor Pendlebury on the basis that the proposal will impact negatively on residents.

6. Consultation

- 6.1. HBBC Environmental Services – Pollution - has no objection to the application.
- 6.2. HBBC Waste Streetscene Services - has no objection to the application.
- 6.3. LCC Highways - have no objection to the application as they are unable to demonstrate that the proposal will result in any severe impact upon the highway network.

7. Policy

- 7.1. Core Strategy (2009)
 - No relevant policies
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM20: Provision of Employment Sites
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF Dec 2023)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
 - Good Design Guide (2020)
 - National Design Guide (2019)
 - Local Highway Authority Design Guide

8. Appraisal

- 8.1. The application site is within an urban area with a mix of neighbouring uses (residential and industrial/employment). The key issues in respect of this application are therefore:
 - Principle of development
 - Design and impact upon the character of the area.
 - Impact upon neighbouring residential amenity
 - Impact upon parking and highway safety

Principle of development

- 8.2. The application site is formed from part of the garden of 552 Coventry Road, however it is being used for the storage of skips. The proposal is therefore a change in the use of the site from C3 (dwellinghouse) to B8 (storage and distribution). The surrounding area has a mix of uses but originally the garden of 552 Coventry Road would have been adjacent to the rear of an industrial unit of approximately 32m in length meaning that commercial/industrial activity had less of

an impact on the adjacent residential property as it was either enclosed within the building or screened by the building if it was taking place outside. To the west of the site are domestic dwellings which have a clear view of the site from their gardens.

- 8.3 Paragraph 11 of the NPPF and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise.
- 8.4 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.
- 8.5 Paragraph 85 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity.
- 8.6 Policy DM20 of the SADMP supports development of new sites for B1, B2 and B8 uses outside of allocated employment areas. It states that development will be supported where it stands within settlement boundaries or on previously developed land. Gardens in built-up areas are not considered to be previously developed land.
- 8.7 The proposal is within the settlement boundaries of Hinckley and adjacent to an employment area. The scheme results in the incorporation of storage and distribution use in a sustainable industrial/employment area and within the settlement boundary. Policy DM20 offers support for the development in principle but there are considered to be some concerns regarding the principle of the open storage and distribution use given its open siting directly adjacent to residential property.
- 8.8 As set out in the NPPF there are three strands to sustainability and these are economic, social and environmental. While the proposal clearly satisfies the economic objective of sustainable development it is doubted whether there is in principle support for the application from a social or environmental objective.
- 8.9 There is no information on how many skips will be on the site at any particular time, and photographs have been supplied with show them being stored to a height significantly higher than the existing boundary treatment. The height of the storage could be controlled though via condition.

Design and impact upon the character of the area

- 8.10 Policy DM10 of the adopted SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features and for building material to respect existing/neighbouring buildings and the local area generally.
- 8.11 The proposed scheme is to change the use of the site from a residential to storage and distribution of skips. There is no other change or amendment to the site. The existing wall and trees border the residential dwelling to the west and employment site to the south respectively. The fence separates the garden of 552 and 554 Coventry Road and the industrial site to the east of the site (Harrowbrook Tyres/Southway Industrial Estate).
- 8.12 Although no building works are involved the use of a former garden (even though the site has been used for the storage of the applicants vehicles for some time) for the storage of skips clearly has a detrimental impact on the character of the site and

by extending an open storage use onto the site adjacent to residential properties clearly has a detrimental impact on the character of the surrounding area, particularly that part of the wider area that comprises residential properties. The proposal fails to complement or enhance the character of the surrounding area as required by Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.13 Paragraph 130(f) the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible and which promotes health and well-being, with a high standard of amenity for existing and future users. Policy DM10 of the adopted SADMP and the adopted Good Design Guide require that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion. Policy DM7 requires development to not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity.
- 8.14 Several comments were received from neighbours highlighting the detrimental impacts of the change of use of the site that has already taken place. These include noise from lorries, storage of rubbish, attracting vermin and odour, unsightly skips stored higher than surrounding fencing, impact to gardens and privacy of neighbours, and inappropriate use of residential garden land.
- 8.15 The site shares borders with 552 and 554 Coventry Road and with the other employment premises on the wider industrial site. It is considered a key consideration that whereas previously the industrial/commercial uses shared an acceptable boundary with the closest residential property as described above due to the rear of the industrial unit backing on to the long residential garden there is now an open active storage/distribution use that shares the boundary. The impact of this change in the relationship between the two differing uses is considered to be significant and to be detrimental. This does not result in a high standard of amenity being provided for existing and future users of the adjacent and neighbouring residential properties.
- 8.16 The Council's Environmental Services Officer has no objection to the application. Nevertheless, given the consideration of the impacts in terms of noise, general disturbance and the unsightly nature of the skip storage generated from the proposal, it considered that the use of the site for the storage of skips has had significant adverse impacts on the amenity of neighbouring residents.
- 8.17 While these impacts could be reduced by the application of conditions restricting the height of the stored skips and their proximity to the common boundary or by an increase in height of the boundary treatment and improved landscaping it is not considered that these would adequately mitigate the significant detrimental effects inherent with the proposals. By virtue of the above, the proposal is not in accordance with Policies DM10 and DM7 of the adopted SADMP and the adopted Good Design Guide.

Impact upon parking and highway safety

- 8.18 Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design. Policy DM17 of the adopted support development that would not have any significant impact on highway safety. Paragraph 115 of the NPPF states that development should only be prevented or

refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.

- 8.19 The proposal indicates that the limited parking that is required for the business is available on the wider commercial site close the site.
- 8.20 The application site is accessed by Coventry Road (B Classified Road-B4666) subject to a 30mph speed limit. The site is not used for parking and therefore does not propose any parking on site. Given the use of the site and nature of the current proposal, additional parking is not required.
- 8.21 Based on available record for LHA, there have been three personal injury collisions recorded along Coventry Road within 500m of the site access. Two PICs (Personal Injury Collisions) were recorded as slight, and one was recorded as serious in severity. The LHA has given consideration to the circumstances of the PIC's and does not consider the development proposal to exacerbate the likelihood of further such incidents occurring.
- 8.22 The LHA is unable to demonstrate that the development proposal if permitted will result in a severe impact upon the highway network and would not seek to object on this basis.
- 8.23 The site is in a highly sustainable urban setting with easy access to a full range of services and facilities by alternative and more sustainable transport means. The proposal is therefore in accordance with Policy DM18 of the adopted SADMP and local highway authority design guidance.

9. Equality implications

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

10. Conclusion

- 10.1. By virtue of the current use of the site and its proximity to the rear gardens of 552 and 554 Coventry Road, it is considered that the proposed change of use

significantly impacts on private amenity of residential properties as a result of the general activities within the site. This does not result in a high standard of amenity for neighbouring residents. The benefits of the scheme in terms of supporting a local business are considered to be significantly and demonstrably outweighed by the harm caused to the amenity of neighbours. The proposal is therefore not in accordance with Policies DM7 and DM10 of the SADMP and it is recommended that permission is refused.

11. Recommendation

Refuse planning permission

Reasons

1. The proposed change of use significantly impacts on the private amenity of neighbouring residential properties as a result of the noise and general activities within the site and therefore is not in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document or in accordance with the Council's Good Design Guide.

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Planning Committee 30th July 2024
Report of the Head of Planning

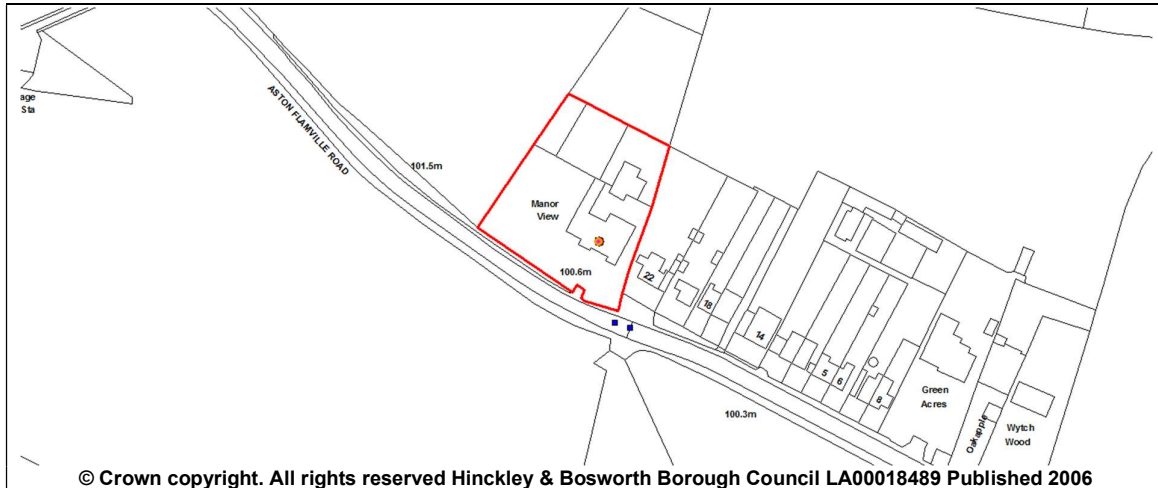
Planning Ref: 24/00274/FUL
Applicant: Mrs Jelfs
Ward: Burbage St Catherines and Lash Hill



Hinckley & Bosworth
Borough Council

Site: Manor View, Aston Flamville Road, Burbage, Hinckley

Proposal: Extensions and alterations of existing ancillary building to form early years day nursery (Class E) with associated car parking



1. Recommendations

- 1.1. That the application be approved subject to:
- Confirmation of an acceptable highway situation from LCC Highways
 - Confirmation of acceptable impacts on residential amenity (noise) from HBBC's Environment Team
 - Conditions outlined at the end of this report
 - The Head of Planning be given powers to determine the final detail of the conditions.

2. Planning Application Description

- 2.1. The application seeks permission for extensions and alterations to an existing residential outbuilding and to change its use to form an early years day nursery (Class E).

- 2.2. The Planning, Design and Access Statement submitted with the application states:

"The applicant is currently the owner of Green Acres Preschool and Nursery that opened in 2013 to care for children from 0 to 5 years where the existing nursery is located a short distance to the east of the proposed site. After many successful years of catering for the day care needs of parents in Burbage, Hinckley & surrounding areas, Green Acres has reached capacity and has a large waiting list. Clearly, there is now a need to expand the facilities by means of opening another nursery. With the Government expansion of free childcare, we are already seeing an increase in demand for places county and indeed countrywide."

- 2.3. The proposed extensions/alterations are substantial and include an increase in the ridge height of the building creating a first floor alongside a 9.6m deep, two storey front extension to the existing building. New windows, doors, a porch and canopy are proposed with the external walls proposed to be rendered. The proposal includes a clock tower and there is some resemblance in the proposed design to a traditional school-like appearance.
- 2.4. The nursery would provide up to 86 places for children under the age of 5 and would employ up to 17 staff both full and part time. Opening hours for the nursery are proposed to be 07:30 – 18:00 hours Monday to Friday, to match the applicant's current nearby nursery (Green Acres Preschool and Nursery).
- 2.5. The proposal seeks to utilise the existing site access from Aston Flamville Road. The Transport Statement submitted with the application outlines that 57 car parking spaces (including six disabled spaces) for staff and parents will be provided through the formalisation of existing car parking on site at present.
- 2.6. The application is accompanied by the following reports and documents:
 - Planning, Design and Access Statement
 - Proposed Plans
 - Transport Statement

3. Description of the Site and Surrounding Area

- 3.1. The application site is located to the north of Aston Flamville Road and is the first in a linear row of predominantly houses which run east-west along this northern side of Aston Flamville Road. These houses are currently surrounded by open countryside. The site comprises an existing dwelling (Manor View) which is situated in extensive grounds with a large car parking area, paddock and the ancillary garage/storage building that is the subject of this planning application.
- 3.2. Alongside the residential use of the dwelling 'Burbage Dance Studio', a dance school, operates from the dwelling. The application submission states the dance school is only open in the evenings between 16:30 and 20:00 hours and caters for two couples at any one time.
- 3.3. Furthermore as outlined above, the applicant operates the existing Green Acres Pre-School and Nursery which lies approximately 150m away to the east, in this same linear development of housing.
- 3.4. The proposal must be viewed within the context of the recent approval of application 23/00673/OUT for the residential development of up to 343 dwellings (Class C3), including provision of public open space, associated infrastructure at 'land opposite and south of pumping station, Aston Flamville Road, Burbage'. This development will bring built development and associated open space to the western boundary of the application site, meaning that the site and adjacent housing will become an extension to the built form of Burbage.

4. Relevant planning history

04/00259/FUL

- Extension and partial change of use to create dance studio
- Refused
- 22.04.2004

04/00838/FUL

- Extension to form dance studio including change of use of barn to garage
- Refused
- 12.08.2004

04/01498/FUL

- Extensions and alterations to dwelling change of use of ground floor to dance studio barn to domestic garage and garden area to car park
- Refused
- 23.03.2005

05/00373/FUL

- Extensions and alterations to dwelling change of use of ground floor to dance studio barn to domestic garage and garden area to car park and repositioning of conservatory
- Approved
- 31.05.2005

05/00773/FUL

- Erection of lounge extension
- Approved
- 07.09.2005

08/00005/FUL

- Ground floor extension
- Approved
- 26.02.2008

16/01137/CLUE

- Certificate of lawful development for occupation of dwelling to be unrestricted, in breach of condition 2 (agricultural occupancy) of planning permission reference 70/3353/05.
- Certificate Granted
- 08.02.2017

5. Publicity

- 5.1. The application has been publicised by sending out letters to the occupiers of neighbouring properties and a site notice was displayed. An issue did arise with initial neighbour notification letters being returned, an additional letter was subsequently sent to the adjacent neighbour.
- 5.2. Objections have been received from 10 households, raising the following concerns and points:
- Increase bulk and massing of the nursery would impact neighbour in terms of an overbearing impact
 - Concerns about a loss of privacy
 - The intensive use of the site is unsuitable for a quiet domestic setting and noise would be harmful to surrounding residents amenity
 - No noise impact assessment has been submitted
 - No drainage details have been provided, the site is adjacent to a culvert and the existing sewage drains under neighbouring gardens
 - The Transport Statement is poor

- The access is close to a “blind bend” on a 60mph road
- The proposal will cause additional traffic, with concerns raised regarding highway safety, environment impacts and air quality
- To achieve visibility splays hedgerows will need to be removed and some are not within the applicants ownership so this cannot be relied on
- The parking arrangement is very tight and it’s unclear how this relates with the wider use of the site
- The pavement between the proposed and existing nursery is narrow and not suitable for pushchairs
- The site is in an unsustainable location with users likely to be reliant on cars
- There is a lack of information on waste storage
- There is an electricity pylon in the garden of the nursery which doesn’t appear to have been considered
- Concerns on the cumulative impact of two nurseries in terms of traffic and noise issues

6. Consultation

6.1. Blaby District Council

- “There is an existing children’s day nursery (Green acres) for a maximum of 50 children at any one time located approximately 130-150 metres away from this application. As such, it is advised that the cumulative impacts are taken into account with the proposal, along with the relevant HBBC planning policies and national planning policies”.

6.2 LCC Highway Authority (LHA)

- “The Local Highway Authority does not consider that the application as submitted fully assesses the highway impact of the proposed development and further information is required as set out in this response. Without this information the Local Highway Authority is unable to provide final highway advice on this application.

Background

The Local Highway Authority (LHA) has been re-consulted by Hinckley & Bosworth Borough Council as the Local Planning Authority (LPA) on a full application for extensions and alterations of an existing ancillary building to form an early years day nursery (Class E) with associated car parking. The proposals are located at Manor View, Aston Flamville Road, Burbage, Hinckley. The LHA previously advised additional information was required in respect of the proposals within its observations submitted to the LPA on 16th April 2024. Notably, the following points:

- Clarification on the location of the Applicants speed survey;
- Further consideration of the site access arrangements, including to visibility splays and existing vegetation/ parking as well as the location of the access;
- Provision of an RSA1 for any new access proposals as well as a designer’s response to any problems raised;
- Consideration of the proximity of the roundabout proposed as part of application 23/00673/OUT; and
- Further information in respect of the proposed parking arrangements as it appears that the proposals to formalise the ‘existing’ parking arrangements do not reflect what is actually present on-site and may actually result in additional parking spaces being constructed.

The Applicant has submitted an e-mail to the LPA dated 18th April 2024 with the view to resolving the above points, along with Savoy Consulting drawing number DWG-03 which details the visibility splays and parking arrangements.

Site Access

The LHA previously requested clarification as to the location of the speed survey which was undertaken by the Applicant to inform the visibility splays. The Applicant has confirmed this was undertaken in the immediate vicinity of the site access. The LHA therefore accept the Applicants speed survey.

The LHA requested clarity as to what the 2.4 x 109m visibility splay in each direction was provided. This has been removed from Savoy Consulting drawing number DWG-03 by the Applicant. It was previously highlighted that the visibility splay to the southeast of the access crosses over existing hedgerow, trees, fencing and gates associated with land within the Applicants red line boundary. The LHA advise it would require nothing within the splays higher than 0.6 metres above the level of the adjacent footway/verge within the visibility splay. On this basis, the LHA advised the Applicant to remove the existing hedgerow/ trees/ fencing and gates which fall within the visibility splay. The Applicant has responded stating they would be agreeable to nothing within the visibility splays over 0.6m height and that this could be conditioned. The parking spaces which were previously shown to fall within this splay have also been removed. On the basis the Applicant agrees to the visibility splay requirements, the LHA advise it is likely the hedgerow fronting the site, as well as the fence/ gates to an existing access are likely to require removal.

The LHA previously advised to the northwest, the visibility splay appeared to cross third party land i.e. the neighbouring field, and was obstructed by the existing hedgerow, which also restricted the available visibility on the site visit. The Applicant's revised drawing, which shows the visibility splays off-set 1.0m into the carriageway, still appear to show the visibility splay (blue line) falling within third party land and being obstructed by the neighbouring hedgerow. In addition, the LHA previously advised is was aware of application reference 23/00673/OUT for up to 343 dwellings at land opposite and south of pumping station, Aston Flamville Road, Burbage. As part of that application, a roundabout is proposed immediately to the northwest of the site access. That application was granted planning permission on 8th April 2024. The LHA suggested that given the proposals would intensify the use of the existing access and due to concerns with visibility splays in the current location and the proximity of the proposed roundabout, the Applicant should seek to relocate the site access further to the southeast of the site. The Applicant has not addressed the LHA's concerns in respect of visibility splays to the northwest, or the proximity of the proposed roundabout from the access. The LHA cannot currently see any reason why the site access could not be relocated. As advised previously, the LHA would require a Stage 1 Road Safety Audit for any new or amended access arrangements.

Internal Layout

The LHA previously advised that 57 car parking spaces were proposed within the site and that this was formalising what was already on-site at present. The LHA advised no detailed breakdown as to the level of staff on site at any one time had been provided, however it was considered the proposed level of parking exceeded the requirements set out within the Highway Requirements for Development Part 4' document within the Leicestershire Highway Design Guide and would be acceptable.

The LHA also requested clarification as to the current level of usage of the parking area throughout the day. It was advised there appeared to be a dance

studio which shares the same access and presumably the same parking area would be shared. The LHA sought clarification as to whether the opening times differ for each use for example and, if not, the maximum number of attendees at the dance studio. The Applicant has advised that the dance studio is only open in the evenings between 16:30 and 20:00 hours and caters for a maximum of two couples at any one time.

As advised further above as part of the Site Access comments, the LHA previously advised six car parking spaces appear to fall within the south-eastern visibility splay at the site access, which was highlighted to be of concern for the LHA. It was also advised the submitted drawing also detailed the spaces in the same location as existing trees. In addition, it was highlighted a number of car parking spaces are shown along and close up to the north-western boundary of the site, where trees are also detailed. The LHA requested clarity in respect of the parking provision, as based on a site visit, the drawing did not appear to accurately reflect the existing situation and it was considered unclear whether additional parking is in fact being constructed/ proposed.

The Applicant has now submitted Savoy Consulting drawing number DWG-03, which has removed the six parking spaces which were previously shown within the visibility splay at the site access. The LHA advises that while the parking arrangements are considered to be acceptable and could accommodate parking for both the dance studio and nursery, the revised drawing still shows several car parking spaces along and close up to the north-western boundary of the site, where trees are also detailed. The LHA believe the drawing does not accurately reflect the existing situation and the Applicant has not addressed this comment. Therefore, the LHA maintains its belief that these spaces are currently not present on-site and should the drawing be conditioned by the LPA, the spaces would need to be constructed. The LHA advise the LPA that the proposals as shown could result in the removal of a number of trees within the site along its north-western boundary.

Closing

The LHA requires the Applicant to submit additional information to the LPA in respect of the following points, for further consideration by the LHA:

- Further consideration of the site access in terms of visibility splays and the location
- Provision of an RSA1 for any new access proposals as well as a designer's response to any problems raised; and
- Consideration of the proximity of the roundabout proposed as part of application 23/00673/OUT.

Officer Note: HBBC are awaiting additional comments from LCC Highways in response to additional correspondence from the applicant's agent. Additional comments will be reported on the Supplementary List.

6.3 **HBBC Environmental Health –**

Initial comments:

“Please can the applicant describe how noise, particularly from outdoor use will be controlled?

Is any external plant proposed, if so please provide details”

Subsequent comments following submission of additional information:

“Would it be possible in the interest of good acoustic design to locate both outdoor units on the northern façade- that will direct noise away from the neighbouring garden. If that would be possible I have no objection and no further comments.”

Officer Note: Officers have request additional comments/detail with regards to the impact of noise from children on surrounding residents and the potential cumulative impact from the nearby nursery. Further comments will be reported on the Supplementary List.

6.4 **HBBC Waste Management –**
“No comments or objections”

6.5 **Burbage Parish Council-**
“Burbage Parish Council has no objections to this application”.

7. **Policy**

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Burbage Neighbourhood Plan (2021)

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide

8. **Appraisal**

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

- Principle of Development
- Impact upon Highway Safety
- Design and impact upon the character of the area and countryside
- Impact upon Residential Amenity
- Flood Risk and Drainage

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 Burbage Neighbourhood Plan (2021).
- 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 published on 8th February 2024. 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. A second Regulation 18 Consultation will occur in Summer 2024, owing to the need for consultation the emerging Local Plan would be attributed very limited weight.
- 8.2. The site is located in the countryside outside of the settlement boundary of Burbage. Policy DM4 is therefore applicable, the policy states “To protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.” The policy lists types of development which will be considered sustainable, of relevance to this proposal is criteria b) which supports a proposal involving the change of use, re-use or extension of existing buildings which lead to then enhancement of the immediate setting. The proposal complies in principle with this being an application to change the use of and extend an existing building, the proposal would however not enhance the immediate setting but have a neutral impact. There is therefore some conflict to Policy DM4 in that regard.
- 8.3. Concerns have been raised with regards to the sustainability of the site and likelihood that future users would need to drive to the nursery. At present this is likely as the site is not located in a location which is readily accessible by public transport or walking. However, this is the same for the existing nursery 150m from the site. Furthermore, as highlighted above the proposal must be viewed within the context of the recent approval of application 23/00673/OUT for the residential development of up to 343 dwellings (Class C3) immediately adjacent to the application site. Whilst reserved matters detail have yet to be determined, this consented development will introduce housing and associated infrastructure (including footpath improvements) immediately adjacent to the application site. Thus, the nursery will be sited in an accessible location and in close proximity to future residents. In light of this adjacent consented development, it is considered that the site is therefore not wholly unsustainable.

Impact upon Highway Safety

- 8.5. 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)). Policy DM18 states that all proposals for new development will be required to provide an appropriate level of parking provision justified by an assessment of the site location, other modes of transport available (e.g. public transport and cycle provision) and appropriate design. Any development will be expected to provide disabled parking provision.

- 8.6. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.7. Paragraph 114 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 115 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 116(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.
- 8.8. Concerns regarding highways have been raised in objection comments from residents. In particular concerns have been raised regarding the level of onsite parking, general traffic levels and safety concerns owing to the speed of traffic on Aston Flamville Road.
- 8.9. The proposal seeks to utilise the existing access point from Aston Flamville Road and formalise the existing parking arrangements in place creating 57 parking spaces including 6 disabled spaces
- 8.10. As can be seen at paragraph 6.2 of this report LCC Highways have raised a number of concerns and have requested additional information. The applicant's agent has provided a rebuttal/additional information and the latest position from LCC highways will be reported to members within the Supplementary Information.

Design and Layout

- 8.11. Policy DM4(b) requires applications for the change of use, re-use or extension of existing buildings to lead to an enhancement of the immediate setting. The policy goes on to state that development in the countryside should not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; should not undermine the physical and perceived separation and open character between settlements; and should not create or exacerbate ribbon development.
- 8.12. 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.
- 8.13. 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.

- 8.14. The proposed extensions are substantial and will significantly alter the appearance of the existing building. It is also likely that the building will be visible from Aston Flamville Road when approaching the site from the west. The extensions and increase in scale of the building will introduce new built form from this view and to the rear of the existing dwelling contrary to the building line of the immediate neighbouring dwellings. However, the site has a number of outbuildings and extensions to the rear which are visible from Aston Flamville Road and the building would be viewed in the context of the surrounding houses, mitigating this impact slightly. Further mitigation is provided through the slight screening by trees along the western boundary of the site, but a landscape condition is recommended requiring further details of landscaping to be submitted and this should focus on additional tree planting along this boundary.
- 8.15. Of particular importance again, is the consented housing development which will bring built development close to the western boundary of the application site. Once completed this development will alter the building line of Aston Flamville Road with housing proposed to be set back from the existing row of housing and application site and the development will also largely screen the nursery except when immediately adjacent to the site. Even when visible, it will be viewed in context of the housing development.
- 8.16. No details of waste storage have been provided, a condition is recommended requiring the submission of this prior to the first use of the development to ensure this is sited in a suitable location and not to the detriment of visual or residential amenity.
- 8.17. Overall, in light of the approved surrounding development, the proposal is judged to complement the surrounding character with regards to layout, density, mass, design, materials and architectural features and complies with Policy DM10 of the SADMP. Whilst the scheme would not enhance the immediate setting, it would not adversely impact the character of the countryside and the impact on the character of the countryside is therefore accepted.

Impact upon Residential Amenity

- 8.18. 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.
- 8.19. Paragraph 135 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.
- 8.20. Paragraph 191 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.
- 8.21. Overdominance and privacy concerns have been raised by residents in the objection comments received alongside concerns surrounding noise and disturbance.

- 8.22. The building is proposed to be increased in height from approximately 3.8m to 7.1m, with the eaves height increasing from 2.7m to 5m. At its closest point the building is sited approximately 5m from the shared boundary with the only immediate neighbouring residential property- 'Ty Isaf'. The separation distance between the proposed nursery building and dwelling itself is approximately 21m. The separation distance is judged to be sufficient to minimise adverse overdominance to the dwelling itself. Being located to the north west of the dwelling, the proposal would also not result in an adverse loss of light to the dwelling. An additional sense of enclosure and some limited loss of evening light to the garden of Ty Isaf may occur as a result of the additional height of the building, however, this is judged to be limited owing to the building being set back from the garden boundary and the presence of trees along the shared boundary at present. Furthermore Ty Isaf benefits from a large garden to the rear, therefore, the impact of the building itself is unlikely to effect the enjoyment of the garden as a whole.
- 8.23. The rear elevation of the host dwelling 'Manor View' faces the proposed nursery building, the building would be sited at its closest point 10m from the ground floor lounge window and first floor habitable windows. Other windows at ground floor are for the dance studio (non habitable rooms). The proposal by virtue of its proximity to the dwelling will result in an additional sense of enclosure to this property. This is partly mitigated by the low eaves height with the roof pitching away from the dwelling and limited number of habitable room windows at ground floor. There would likely be some additional impact, however, officers are satisfied this would not be significantly adverse. The building is to the north of the dwelling therefore would not result in a loss of light to the dwelling.
- 8.24. A condition is recommended requiring all first floor windows in the southern elevation to be obscure glazed, this will prevent adverse overlooking to Manor View and Ty Isaf. The ground floor windows will not introduce additional adverse overlooking owing to the boundary treatments between the properties.
- 8.25. With regards to noise and disturbance, the proposed use will generate additional noise through comings and goings of staff/parents and children as well as the day to day operation of the site. HBBC's Environment Team were consulted on the application. Additional information and amendments have been made with regard to plant equipment which is now judged to be acceptable. Further clarification and detail has been requested from the Environment Team with regards to noise and disturbance from the operation of the nursery and potential cumulative impacts which will be reported on the Supplementary List. It is likely that the proposal would cause some additional noise, however, nurseries are not uncommon in residential areas and one exists in the immediate area.
- 8.26. It is considered that owing to the siting, layout and design of the development the built form of the proposal, subject to conditions, would 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. Further information will be reported in the Supplementary List with regards to noise and disturbance impacts.

Flood Risk and Drainage

- 8.27. 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.

- 8.28. Paragraph 173 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 175 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 8.29. The site is located within Flood Zone 1 at low risk from fluvial flooding and at low risk of surface water flooding. No surface or foul water drainage details have been submitted. HBBC's drainage officer has raised no objections, however, in light of the neighbouring objection comments and attention brought to the presence of the culvert and foul drainage arrangements a condition is recommended requiring full details of surface water and foul water drainage to be submitted and approved prior to development.
- 8.30. Subject to the submission of a detailed surface and foul water drainage strategy the proposal is therefore judged to comply with Policy DM7 of the SADMP and the NPPF.

Conclusions and Planning Balance

- 8.31. 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.
- 8.4 The site is located in the countryside outside of the settlement boundary of Burbage. Policy DM4 is therefore applicable, of relevance to this proposed is criteria b) which supports a proposal involving the change of use, re-use or extension of existing buildings which lead to then enhancement of the immediate setting. The proposal complies in principle with this being an application to change the use of and extend an existing building. The proposal is located immediately adjacent to a consented site for up to 343 dwellings, therefore is not judged to be an unsustainable location.
- 8.5 The proposal would not result in an enhancement to the immediate setting, but is acceptable in design terms, subject to conditions, especially owing to the adjacent consented residential development.
- 8.6 Further detail will be reported on the Supplementary List with regards to the highway impact and the proposal is only recommended for approval subject to the previous concerns being overcome. Similarly, further engagement has been sought from the HBBC Environment Team with regards to noise and disturbance.
- 8.7 Otherwise, subject to conditions, the proposal is judged to be acceptable with regards to residential amenity (from the built form) and flooding and drainage.
- 8.8 Limited conflict remains with policy DM4 as a result of the proposal not demonstrating an enhancement to the countryside, this conflict is tempered owing to the adjacent approved residential development. But in any event, would be outweighed through the social and economic benefit of providing a nursery in this location.

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 LCC highways and the EHO confirming they are satisfied with the impact of the development on the highway and latterly noise and disturbance impacts.

11. Conditions:

Officer Note: A draft list of conditions is included below, this will be updated and completed on the Supplementary List and will include Highway/Noise related conditions (if applicable) on receipt of the final comments from LCC highways and the EHO.

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 92 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:

- Plans numbers to be inserted.

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

3. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site and including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting.

During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

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

4. No development shall commence above foundation level until representative samples of the types and colours of materials to be used on the external elevations of the proposed nursery 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.

5. Prior to the first use of the nursery hereby approved a scheme that makes provision for waste and recycling storage and collection across the site shall be 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 prior to the first use of the nursery and thereafter retained in perpetuity.

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) and the National Planning Policy Framework (2023).

6. 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. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface and foul water from the site and to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users, in accordance with Policy DM7 and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

7. The premises shall be used for an early years day nursery only and for no other purpose, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

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

8. The hours of operation for the nursery shall not take place other than between the hours: 07:30 – 18:00 hours Monday to Friday. The nursery shall provide no more than 86 places for children under the age of 5.

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

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

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

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