

**Planning Committee 12 November 2019  
Report of the Planning Manager**

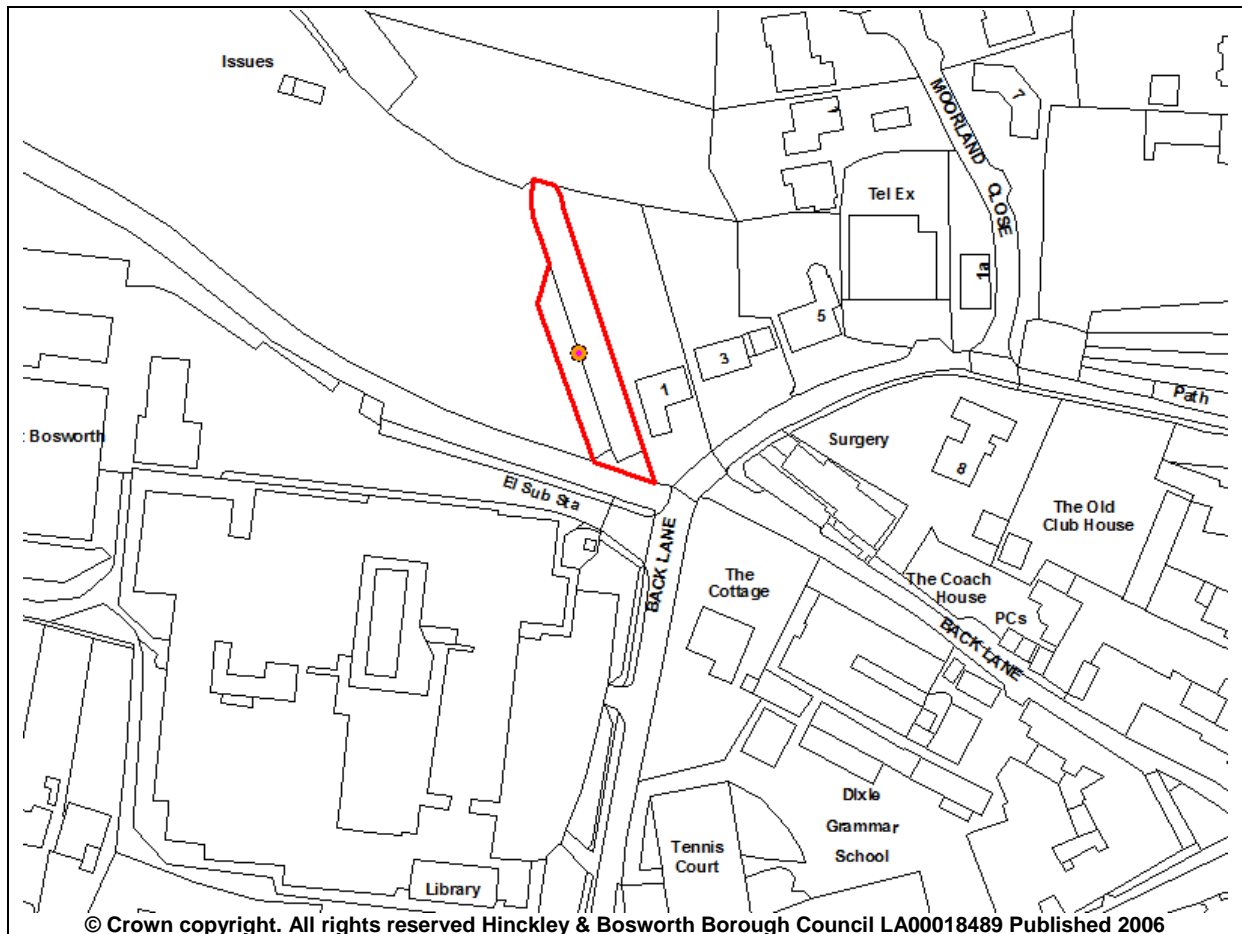
**Planning Ref:** 19/01035/FUL  
**Applicant:** Mrs Judith Sturley  
**Ward:** Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth  
Borough Council

**Site:** Land Adjacent To 1 Back Lane Market Bosworth

**Proposal:** Erection of 1 No. detached dwelling



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

**1. Recommendations**

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

**2. Planning Application Description**

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

**2.2.** This application is a revised scheme of application 15/00716/FUL, which was previously refused. The previous application was refused for the following reasons:-

*"The proposed dwelling due to its siting and location would detrimentally impact upon an important protected view and vista, an area of designated local green space and the importance of the historic setting of the Market Bosworth"*

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

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

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

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

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

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

## **5. Publicity**

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

## **6. Consultation**

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

The proposal will severely impact on the traffic flow and access for the larger vehicles;

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

## **7. Policy**

### **7.1. Market Bosworth Neighbourhood Plan 2014-2026**

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

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

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

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

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

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

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)
- Planning (Listed Buildings and Conservation Areas) Act (1990)
- Community Infrastructure Levy (CIL) Regulations (2010)

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

- Landscape Character Assessment 2017
- Market Bosworth Conservation Area Appraisal

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Impact upon Archaeology
- Obligations
- Planning Balance
- Other matters

#### Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework February 2019 (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with up-to-date development plan permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009); Site Allocations and Development Management Policies (SADMP) and the Market Bosworth Neighbourhood Plan which was made in September 2015.
- 8.4. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.5. However, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.6. This is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD, the Core Strategy and the Market Bosworth Neighbourhood Development Plan which are attributed significant weight as they are consistent with the Framework.
- 8.7. Policy BD2 of the Market Bosworth Neighbourhood Plan allocates land to the south of Station Road to meet the needs of the settlement as set out in Policy 11 of the Core Strategy. However the NDP does not prevent development on non-allocated sites.
- 8.8. As the site is situated outside the defined settlement boundary of Market Bosworth which is situated to the east and south of the application site. Policy DM4 of the SADMP is therefore applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:

- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
  - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
  - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
  - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
  - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
  - It does not undermine the physical and perceived separation and open character between settlements; and
  - It does not create or exacerbate ribbon development;
- 8.9. The site does not fall under any of the categories identified in DM4 as sustainable development and there is a clear conflict therefore between the proposed development and the policy. However, given that the Council is currently unable to demonstrate a five year housing land supply, paragraph 11(d) of the NPPF is engaged and therefore a 'tilted balance' assessment must be made and the proposal will need to be carefully weighed in the planning balance along with the detailed assessment of all other material planning considerations in this case.

Design and impact upon the character of the area

- 8.10. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Policy DM4 of the SADMP seeks to resist unsustainable development within countryside locations and seeks to ensure proposals reflect the surrounding character of the countryside, and protect its intrinsic value, beauty and open character.
- 8.11. Policy 11 of the Core Strategy places special emphasis on the protection of fingers of green open land which penetrate towards the market place as these are important to the rural setting of the town as supported by the Market Bosworth NP.
- 8.12. The Market Bosworth Neighbourhood Development Plan (MBNDP) was adopted in 2015 and therefore full weight is afforded to relevant policies within the Document.
- 8.13. Policy CE1 of the Market Bosworth NP seeks to ensure that all new development within Market Bosworth is in keeping with this character area in regard to scale, layout and materials to retain local distinctiveness and create a sense of place. There are different character areas across Market Bosworth with the site located on the edge of character area D (Suburban Residential) and E (Historic Core).
- 8.14. Policy CE2 of the NP states that new development that is incompatible with the importance of the local green space as an attractive publicly accessible area will not be allowed unless there are very special circumstances where the benefits of the development clearly outweigh any harm. The proposed dwelling does not provide any benefits that would outweigh harm to the site as an important area of local green space. The proposal would therefore conflict with Policy CE2 of the Market Bosworth NDP which seeks to prevent development unless there are very special circumstances where the benefits of the development clearly outweigh any harm.

- 8.15. Market Bosworth is a ridge top settlement with areas of woodland, parkland and countryside converging towards a historic market place. This sharp transition from rural to urban form is a key characteristic of the conservation area. The siting of the field track and public footpaths at their junction on Back Lane, all fronting the application site, allows for the provision of an excellent vista looking north-west into the countryside which clearly highlights the transition from the village centre to open countryside. As such this vista has been identified as a feature to be protected in the Market Bosworth Conservation Area Appraisal (2014), with the current open and undeveloped character of the site allowing the significance of this part of the conservation area to be fully appreciated. As such this vista has been identified as a feature to be protected in the Market Bosworth Conservation Area Appraisal and the Market Bosworth NDP.
- 8.16. When approaching the village from the undulating slopes of Silk Hill there is also a view into the historical core of the village which includes the spire of St Peters Church, a grade II\* listed building. The application site forms part of this view so is therefore considered to be located within the wider setting of this listed building.
- 8.17. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.18. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 8.19. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. All proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.20. The undulating slopes of Silk Hill allow for a view into the historical core of the village including the spire of St Peters Church, via some modern dwellings of a suburban character which are adjacent to the application site and by virtue of its location the proposed dwelling would continue to maintain the view of the church spire when entering the conservation area from Silk Hill.
- 8.21. The proposal represents a contemporary design whilst utilising building materials traditional to the nearby historical core of the Conservation Area (and the wider area) for its construction. The dwelling would be dug into the ground to seek to reduce its visual prominence, having regard to its scale and massing, it is considered that the proposal would not adversely impact upon the views into the village from Silk Hill (views looking eastwards from public rights of way) with the dominance of the church spire being maintained in these views. As such despite being located within the wider setting of the grade II\* listed Church of St Peter the

proposal is not considered to harm the significance of this listed building for the above reasons. Although the proposed dwelling, would be more contemporary in nature, it is considered to largely reflect the suburban character of the dwellings immediately adjacent along Back Lane and the character of the view into the conservation area from its setting on Silk Hill would therefore be largely maintained.

- 8.22. The proposed dwelling would be situated back within the plot away from the frontage, and is to be dug down into the ground to reduce its scale, alongside consideration being given to ensuring the eaves and ridge height of the property respect those of the adjacent dwelling, which has sought to reduce the proposed dwellings visual prominence and minimise any potential impact on the character of the adjacent conservation area and maintain the vista adjacent to the sites frontage. Whilst welcomed, it is considered that the extent of the vista into the countryside from Back Lane would be reduced, although the reduction in the extent is not as great as within the previously refused application (ref: 15/00716/FUL). In terms of the adverse effects on the character and appearance of the conservation area, this would still equate to harm to its significance.
- 8.23. The harm would be less than substantial and no more than minor in magnitude due to the design and siting considerations listed above. Nevertheless, in accordance with Policy DM11 of the SADMP and paragraph 196 of the NPPF the harm caused by the proposal should be weighed against the public benefits. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
  - Reducing or removing risks to a heritage asset
  - Securing the optimum viable use of a heritage asset in support of its long term conservation
- 8.24. The proposal has failed to demonstrate any heritage benefits however there are other (non-heritage) public benefits associated with the proposal that should be taken into account; these would include the provision of a new self-build dwelling, some short-term employment from the construction of the dwelling, and the continued use of local facilities and services by the future occupants. There may well be further public benefits associated with the proposal that should be taken into account, but taken as a whole the level of these benefits would have to be of the level required to outweigh the harm caused by the proposal taking into account the great weight that should be given to the assets conservation (para.193 of the NPPF) and the requirements of Policy DM11 of the SADMP.
- 8.25. Whilst attempts have been made to respond to the constraints of the site they do not outweigh the harm caused to the setting of the Conservation Area, and a dwelling in this location. The harm would be less than substantial however it is not considered any public benefits associated with the scheme would outweigh the harm. The proposal is therefore contrary to paragraph 196 of the NPPF 2019 and policy DM11 of the SADMP.
- 8.26. Policy CE1b states new development should pay particular attention to existing rooflines in Character Areas D and E and not harm important views. The proposed roofline would be in contrast to the existing properties along Back Lane through both design and height. It would also impact upon important views into the



countryside. The proposal is therefore in conflict with Policy CE1b of the neighbourhood plan.

- 8.27. The proposed development would therefore have a detrimental impact upon the important view and vista as defined in Policy CE3 of the Market Bosworth Neighbourhood Plan. The proposed development would be contrary to Policy CE2 where new development is incompatible with the defined local green space, and no benefits have been demonstrated which would outweigh the harm to this important area of local green space. The introduction of a dwelling, in the proposed location also fails to preserve the special character of the setting of the adjacent conservation area, where the transition from village centre to open countryside, is an identified feature to be protected, contrary to Policies DM11 and 12 of the Site Allocations and Development Management Policies DPD, Section 16 of the NPPF and the statutory duty of section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

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

Impact upon highway safety and Public Rights of Way

- 8.33. Policies DM17 and DM18 of the SADMP state that proposals will not be acceptable where they have a detrimental impact upon highway safety or the satisfactory functioning of the local highway network including public rights of way.
- 8.34. Objections have been received during the course of the application regarding the position of the access and the parking within the local highway authority.

- 8.35. Leicestershire County Council (Highways) have considered the application and raise no objection the proposed development subject to conditions, to control and secure access and parking prior to occupation of the dwelling. The proposed development would be accessed from Back Lane and would provide 2 off street parking spaces to the front of the dwelling to meet parking standards. The proposal would generate a low number of vehicular movements that are unlikely to significantly impact upon the immediate area or wider network when considered cumulatively with other developments.
- 8.36. The application also proposes to divert the existing public footpath (S69) running through the site onto adjacent land. No response has been received as yet from Leicestershire County Council (Public Rights of Way) and this will be reported as a late item. However the applicant would need to formally apply for and gain consent for a footpath diversion order under Section 257 of the Town and Country Planning Act 1990 should planning permission be granted.
- 8.37. Subject to the development being carried out in accordance with the recommended conditions, the proposal would be in accordance with Policies DM17 and DM18 of the adopted SADMP.

#### Drainage

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

#### Impact upon Archaeology

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

heritage asset, and would therefore be in accordance with Policies DM11 and DM12 of the SADMP.

#### Obligations

- 8.44. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. However, the PPG is clear that obligations for affordable housing should not be sought for applications of 10 or less residential units or where a site area does not exceed 0.5ha, which this site does not.
- 8.45. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.46. The nearest public amenity space to the application site is The Square, Market Place (reference MKBOS22), The garden of remembrance (MKBOS24) both of which have quality scores of 71 and 72% in the Open Space and Recreation Study (2016) which is close to the target quality score of 80%.
- 8.47. Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant, however, in this case, the proposal is for only one dwelling which would not have any significant impact on existing play and open space facilities. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

#### Planning Balance

- 8.48. 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.
- 8.49. The NPPF is a material consideration in determining applications. Paragraph 11 of the NPPF identifies that plans and decisions should apply a presumption in favour of sustainable development, and for decision taking this means approving development proposals that accord with an up to date development plan. As previously identified the housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the NPPF applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.50. The proposal would be in conflict with Policy DM4 of the adopted SADMP as it does not support new residential development outside the settlement boundary. This policy is in accordance with the NPPF and has significant weight.
- 8.51. Paragraph 8 of the NPPF states that sustainable development has three overarching objectives, which are interdependent and need to be pursued in

mutually supportive ways. The assessment of the three dimensions relative to this proposal are as follows:

- 8.52. Economic – The scheme would provide limited benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself and from the future occupation of the development supporting businesses in the wider rural area.
- 8.53. Social – The scheme would provide a small contribution to the overall housing supply within the Borough through the provision of one new dwelling. The proposal would however provide a dwelling in an area where there is no additional housing allocation outside the defined settlement boundary of Market Bosworth other than the proposed allocated site to the south of Station Road, Market Bosworth.
- 8.54. Environmental - Although the proposal is situated outside the settlement boundary, it is immediately adjacent to it, and not in an isolated position, with development positioned to its east and south of the site, and would be in close proximity to the local services of Market Bosworth. However the identified harm caused by the development upon an important protected view and vista, and an area of designated local green space in addition to the adverse effects on the character and appearance of the conservation area, the proposal would result in significant and demonstrably harm, which would not be outweighed by the benefits when assessed against the NPPF.

#### Other matters

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

### **9. Equality Implications**

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

## **10. Conclusion**

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.2. The application site is situated outside the settlement boundary of Market Bosworth and therefore in the countryside, where strategic adopted development plan policy DM4 of the adopted SADMP seeks to protect the countryside from unsustainable development, including new residential development.
- 10.3. However, the housing policies in the adopted Core Strategy and the adopted SADMP are out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the NPPF applies where permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.4. The dwelling is situated within an identified within an important view and vista and a designated local green space as identified within the MBNP. Due to the siting and location of the proposed dwelling, it is considered that the proposed dwelling would have an impact upon this identified protected view and vista, an area of designated local green space and the importance of the historic setting of the Market Bosworth conservation area as a designated heritage asset, the impacts of which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.5. The proposal would therefore fail to comply with local and national planning policies including Policies CE1, CE2 and CE3 of the Market Bosworth Neighbourhood Development Plan, Policies DM1, DM4, DM10, DM11 and DM12 of the SADMP and Core Strategy Policy 11, and on balance the limited benefits of the development would not be considered to outweigh the demonstrable harm of this development.

## **11. Recommendation**

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

### **11.2. Reasons**

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

**11.3. Notes to Applicant**

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

Planning Application Form  
Design and Access Statement  
Site Location Plan L1006 B  
Wider site plan L1005 B  
Block plan L1001 B  
Proposed Ground Floor Plan no. L1100 B  
Proposed First Floor Plan no. L1101 B  
Proposed North Elevation 1202 B  
Proposed West Elevation 1200 B  
Proposed East Elevation 1203 B  
Proposed South Elevation 1201 B  
View no 1 comparison drawing 1210 B  
View no 2 comparison drawing 1211 B  
View no 3 comparison drawing 1217 B  
View no 1 looking east 1210 B  
View no 2 looking east 1211 B  
View no 3 looking north 1212 B

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