

Planning Committee 4 February 2020  
Report of the Planning Manager

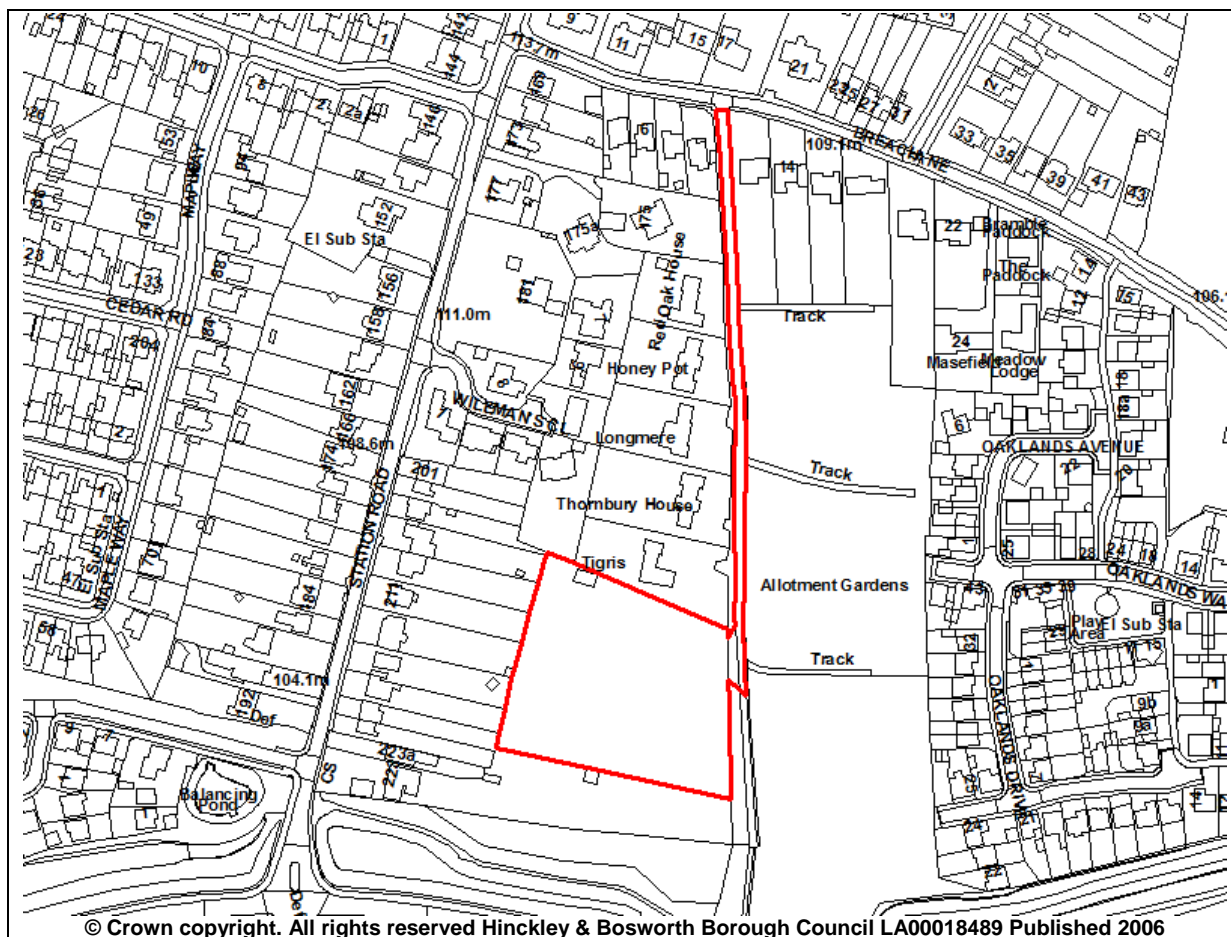


Hinckley & Bosworth  
Borough Council

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

Site: Land West Of Breach Lane Earl Shilton

Proposal: Erection of 3 detached dwellings



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

1. **Recommendations**

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

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

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

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

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

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

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

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

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

## APPENDIX A

Planning Committee 15 October 2019  
Report of the Planning Manager

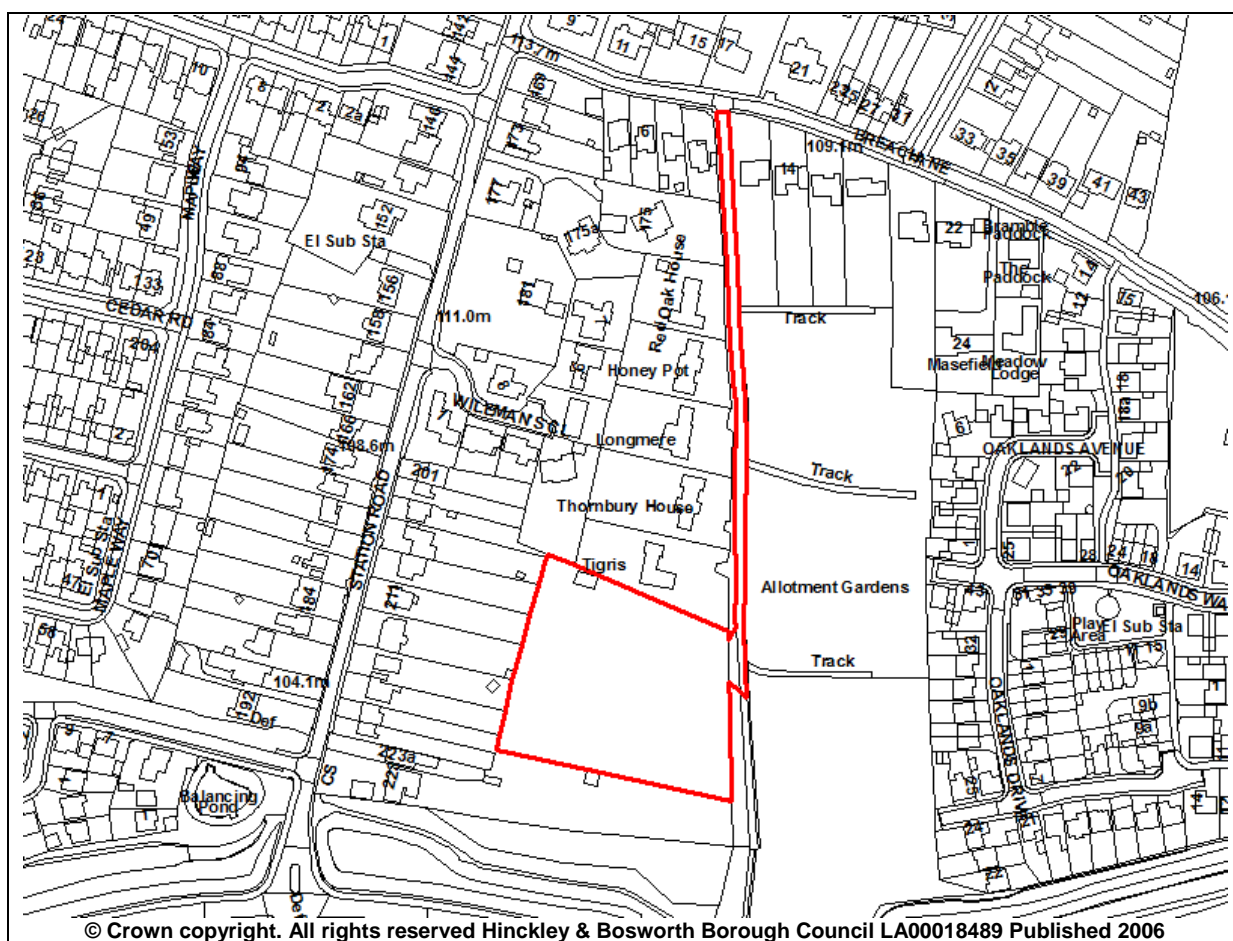
Planning Ref: 19/00607/FUL  
Applicant: Primrose Consulting Ltd  
Ward: Earl Shilton



Hinckley & Bosworth  
Borough Council

Site: Land West Of Breach Lane Earl Shilton

Proposal: Erection of 3 detached dwellings



### 1. Recommendations

#### 1.1. Grant planning permission subject to

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

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

## **2. Planning Application Description**

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

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

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

## **4. Relevant Planning History**

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

## **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. During the course of the application six letters of representation have been received from different addresses. Five were objections and one neither supported nor objected. The comments raised are as follows:
- 5.3. The comments raised the following issues:

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

## **6. Consultation**

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

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

## **7. Policy**

7.1. Core Strategy (2009)

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

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

- Policy DM1: Presumption in Favour of Sustainable Development

- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM19: Existing Employment Sites

### 7.3. National Planning Policies and Guidance

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

### 7.4. Other relevant guidance

- Housing and Economic Development Needs Assessment (HEDNA)
- Earl Shilton and Barwell Area Action Plan (AAP)
- Open Space and Recreation Study (2016)

## 8. Appraisal

### 8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Pollution
- Impact upon ecology
- Other matters
- Other material considerations

#### Assessment against strategic planning policies

- 8.2. Paragraph 2 of the NPPF identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009), Earl Shilton and Barwell Area Action Plan (2014) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.5. However, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 8.6. This is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.
- 8.7. As the site is situated outside the defined settlement boundary of Earl Shilton which is situated along the north boundary of the application site and travels south along its west facing boundary. Policy DM4 of the SADMP is therefore applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
  - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
  - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
  - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
  - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
  - It does not undermine the physical and perceived separation and open character between settlements; and
  - It does not create or exacerbate ribbon development;
- 8.8. The site does not fall under any of the categories identified in DM4 as sustainable development and there is a clear conflict therefore between the proposed development and the policy. This issue will need to be carefully weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case. The outline application is extant and therefore carries weight in the planning balance.

Design and impact upon the character of the area

- 8.9. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.10. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It should be noted that as the development is not considered to be sustainable development in the countryside in accordance with the first part of Policy DM4, any harm to the intrinsic value, beauty, open character and landscape character of the countryside would therefore be unjustified.
- 8.11. Objections to the application have been received on the grounds that the proposal would be detrimental to the character of the area.
- 8.12. The application site is located to the south of existing residential dwellings, along an access off Breach Lane Earl Shilton. The land immediately surrounding the



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

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

Impact upon neighbouring residential amenity

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

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

#### Impact upon highway safety

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

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

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

#### Drainage

- 8.32. Policy DM7 of the SADMP seeks to ensure that development does not exacerbate or create flooding.
- 8.33. Concerns have been received on the grounds that the development would result in flooding from an increase in surface water run-off (from additional hard surfacing and natural springs) on this elevated land.
- 8.34. The Environment Agency flood maps identify the site as being located within Flood Zone 1 and do not highlight any concerns relating to surface water flooding. No evidence has been provided to demonstrate that the proposed dwellings would adversely impact on flood risk. Each dwelling has its own cess pit for foul water drainage and soakaways are proposed for surface water drainage. However, it is considered reasonable to require further drainage details to be provided through a condition to ensure surface water is being discharged incorporating sustainable urban drainage. It is considered that the development would be in accordance with Policy DM7 of the SADMP.

#### Pollution

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

#### Impact upon Ecology

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

#### Other matters

- 8.39. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. To support the provision of mixed, sustainable communities. Policy 19 of the adopted Core

Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.

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

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

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

#### Whether on balance the development would be sustainable

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

#### Other matters

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

### **9. Equality Implications**

- 9.1. **Where No Known Implications** Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

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

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

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

## **10. Conclusion**

10.1. The proposal seeks development of the existing land for the erection of three dwellings. The site is currently a grassed paddock area, and situated outside but immediately adjacent to the defined settlement boundary of Earl Shilton, and therefore would not accord with Policy DM4 of the SADMP.

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

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

10.4. Having regard to Policy DM1 of the SADMP, presumption in favour of sustainable development, and taking into account the relevant Development Plan policies and material planning considerations, it is considered, on balance, that the proposed development constitutes sustainable development. This full application is therefore recommended for approval subject to conditions.

## **11. Recommendation**

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

- Planning conditions outlined at the end of this report.
- The completion of a Unilateral Undertaking to secure play and open space contributions and affordable housing contributions

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

11.3. **Conditions and Reasons**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

## **APPENDIX B**

**ITEM 10**

**19/00607/FUL**

**Primrose Consulting Ltd,**

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

**Proposal:- Erection of 3 detached dwellings**

### **Introduction:-**

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

### **Recommendation:-**

Replace condition 2 with:-

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

Site location and Block plan – 5A-03.09.19

Proposed street scene – 5A-03.09.19

Site plan – 5A – 03.09.19

Received by the Local Planning Authority on 4 September 2019

Plot 1 Ground floor Plan – 6A -01.07.19

Plot 1 First floor plan – 6A.01.07.19

Plot 1 Roof Plan – 6A.01.07.19

Plot 1 Elevations – 6A .01.07.19

Plot 1 Plot Plan – 6A.01.07.19

Plot 2 Ground floor plan 4A.01.07.19

Plot 2 First floor plan 4A.01.07.19

Plot 2 Roof plan 4A.01.07.19

Plot 2 Elevations – 4A-01.07.19

Plot 2 Plot Plan – 4A.01.07.19

Plot 3 Ground Floor plan 3A.01.07.19

Plot 3 First floor plan 3A.01.07.19

Plot 3 Roof plan 3A.01.07.19

Plot 3 Elevations 3A.01.07.19

Plot 3 plot plan 3A.01.07.19

Received by the Local Planning Authority on 4 July 2019

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

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

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

**Reason:** To ensure satisfactory archaeological investigation and recording

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

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