

Planning Committee 4 February 2020
Report of the Planning Manager

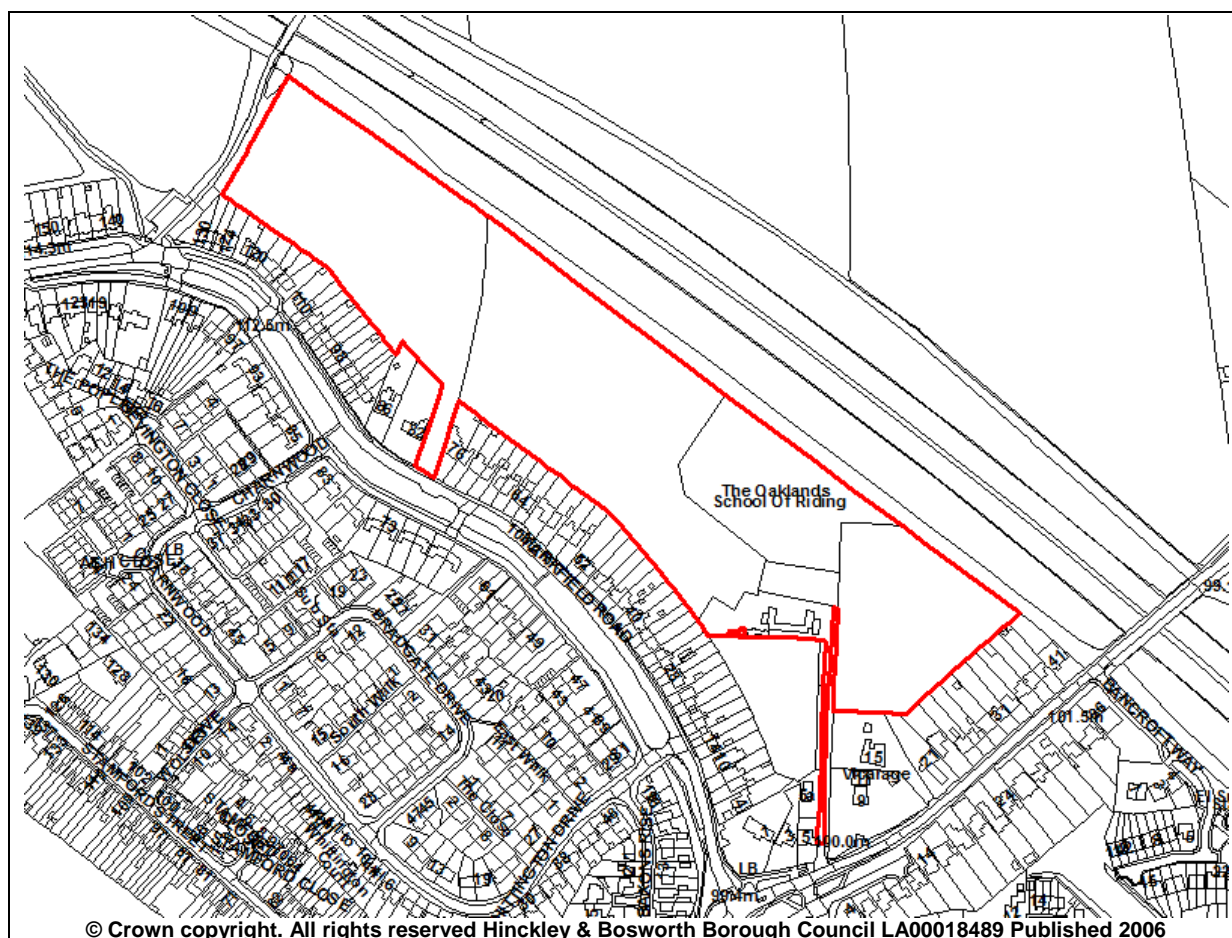


Hinckley & Bosworth
Borough Council

Planning Ref: 19/00680/OUT
Applicant: Charterhouse Strategic Land (1) Ltd
Ward: Ratby Bagworth And Thornton

Site: Springfield Riding School Groby Road Ratby

Proposal: Residential development up to 168 dwellings (Outline - access only) with associated means of access onto Markfield Road and Groby Road, car parking, new footpath links, amenity space and landscaping.



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:
 - 40% Affordable Housing, 75% affordable rented and 25% shared ownership
 - £5,070.00 for library facilities at Ratby Library
 - £94,833.37 for education
 - £109,890.00 Health Care Provision (GP Practices)

- On-site Open Space requirement of at least 605m² of equipped play area; 2822m² of Casual/Informal Play Space and 6720m² of natural green space along with maintenance costs.
 - Off-site Open Space contribution along with maintenance costs for 6451m² of outdoor sports provision and any of the above natural green space required which cannot be accommodated on-site and maintenance.
 - Any Highway Contributions that may be requested and which are deemed to be CIL compliant
 - 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 the inclusion of any highway contributions and the trigger points and claw back periods of all the contributions.

2. Planning Application Description

- 2.1. This application seeks outline planning permission for up to 168 dwellings with associated public open space, landscaping and infrastructure. All detailed matters are reserved for later determination, except access. The site has an area of approximately 6.2 hectares. A detailed access plan has been submitted which shows a new road off Markfield Road along with an emergency access/pedestrian/cycling access off Groby Road in the location of an existing vehicular access.
- 2.2. As the application is in outline format, the proposed housing mix is unknown. However, the applicant has identified that 40% of the housing to be provided would be affordable housing and so if 168 dwellings were to be provided this would result in 101 market dwellings and 67 affordable dwellings with a mix of 50 dwellings for social or affordable rent and 17 intermediate dwellings for shared ownership.
- 2.3. An indicative development framework and a parameters plan have been provided. The indicative framework shows the layout of up to 168 dwellings. Three areas of open space are proposed within the site along with public footpath links to an existing public footpath to the North West and to Groby Road to the south. Three attenuation areas are shown on the parameters plan.
- 2.4. The application is supported by the following technical documents:-
 - Design and Access Statement
 - Geo Environmental Report
 - Arboricultural Impact Assessment
 - Topographical Survey
 - Air Quality Assessment
 - Transport Assessment
 - Traffic Impact Survey
 - Highway Technical Note
 - Trial Trenching Report
 - Framework Travel Plan
 - Planning Statement
 - Noise Report
 - Noise Exposure Assessment
 - Geotechnical Options Report
 - Statement of Community Involvement

- Landscape and Visual Impact Assessment
- Illustrative Landscape Strategy
- Archaeological Geophysical Survey Report
- Biodiversity Impact Assessment
- Ecological Impact Assessment
- Utilities Assessment
- Flood Risk Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site is delineated by the M1 motorway at its northern boundary. This northern site boundary is defined by mature tree cover which lines the southern edge of the M1 embankment which falls steeply from the site boundary by circa. 8m to the Motorway. The rear gardens of residential properties which front onto Markfield Road form the southern boundary of the application site with the rear gardens of properties along Groby Road forming the eastern boundary. The western boundary is defined by the public footpath alongside Martinshaw Wood. The Oaklands School of Riding occupies the southern portion of the site and this riding school is accessed via a private access road onto Groby Road. The built development and major infrastructure links give the area its semi-rural character.
- 3.2. The site slopes gently from west to east falling from a height of circa. 109m AOD on the western site boundary to circa. 103m on the eastern site boundary. The site also falls from the northern boundary with the M1 Motorway corridor from circa. 108m AOD to circa. 105m AOD within the central Site area. The site is not currently publicly accessible and there are no Public Rights of Way running through the site. However, there are a number of public rights of way within close proximity to the site including footpath R38/1 which lies to the immediate west of the Site on the edge of Martinshaw Wood.
- 3.3. The majority of the site lies within the National Forest. The site is also located within Landscape Character Area A – Charnwood Forest Settled Forest Hills (LCA – A) in the Landscape Character Assessment (2017) and lies immediately adjacent to Urban Character Area 8 – Ratby. The key characteristics of LCA – A in relation to the site are the small to medium scale field patterns interspersed with large areas of woodland cover and large clustered villages.

4. Relevant Planning History

None

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. 190 letters have been received objecting to the following issues:
- 1) The local highway network cannot cope with 175 additional houses
 - 2) Markfield Road is used by emergency vehicles accessing the M1 and A50 and this proposal could generate 4500 additional vehicle movements per week along the road
 - 3) Impact on wildlife and ecology using the site in particular birds, bats, badgers and hedgehogs
 - 4) Loss of semi-improved neutral grassland
 - 5) Noise and pollution from construction activity
 - 6) The local schools and pre-schools are full
 - 7) Anti-social behaviour is experienced in the area

- 8) More than 300 residents attended a meeting with the developer to voice their objections
- 9) Increase in noise from the additional traffic
- 10) Proposed access from Markfield Road into the site is on a blind bend which has highway safety issues
- 11) The emergency access has insufficient vehicle and pedestrian visibility splays
- 12) The emergency access would interfere with the roots of trees protected by Tree Preservation Orders
- 13) Overlooking and loss of privacy into the rear gardens of the surrounding properties
- 14) Ratby is a village and does not require any additional housing. This proposal would add an additional 11% to the population of Ratby
- 15) Impact on Martinshaw Wood, an semi-natural ancient woodland from the 13th century
- 16) Possible additional 1500 houses planned in the area
- 17) Other housing schemes have been refused in the village including appeal decisions adjoining the site
- 18) Ratby has lost some of its services and facilities
- 19) The M1 may need to be widened in the future
- 20) Footpaths along Groby Road are very narrow for additional pedestrians
- 21) Ratby has exceeded its housing target in the SADMP
- 22) Loss of views to rear from properties on Markfield Road
- 23) Loss of value of existing properties
- 24) Surrounding gardens will be flooded
- 25) Already a lot of affordable housing schemes in Ratby
- 26) Only Ratby residents objected to the developer's consultation exercise as only Ratby residents were invited to the event
- 27) Proposal will affect Green Belt land, a Green Wedge designation and a SSSI
- 28) Housing next to a motorway will expose children to pollution
- 29) Ground disturbance will release carbon into the atmosphere
- 30) Loss of semi-improved grassland
- 31) Loss of ridge and furrow on the site
- 32) Concerns about the public consultation exercise for the application
- 33) Proposal not in accordance with NPPF with regards to meeting and widening the choice of places for existing and new communities
- 34) Higher ground levels on the site will affect amenity of surrounding properties
- 35) A previous application for housing has been refused on Markfield Road due to safety issues with the vehicular access

6. Consultation

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

HBBC Affordable Housing
 HBBC Environmental Services (Pollution)
 HBBC Waste Services
 Leicestershire Police
 Severn Trent Water
 LCC as Lead Local Flood Authority
 HBBC Drainage
 LCC Ecology
 LCC Archaeology
 National Forest
 Highways England
 HBBC's Arboricultural Officer

- 6.2. Woodland Trust object to the proposal raising the following issues:

- A 50 metre buffer around the veteran ash tree (T6) is recommended; The loss of a veteran tree would constitute the loss of an irreplaceable habitat.

6.3. Ratby Parish Council object to the proposal raising the following issues:

- Unacceptable levels of traffic and vehicles would be generated from the proposal;
- Ratby has exceeded its housing requirements in the Core Strategy;
- A previous proposal for 9 dwellings has been refused on highway safety grounds;
- Detrimental impact on ecology and Biodiversity;
- Impact on value of Martinshaw Woods;
- Loss of ridge and furrow; and,
- Access onto Groby Road is unsafe.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres relating to Leicester
- Policy 14: Rural Areas Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

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

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

7.3. National Planning Policies and Guidance

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

7.4. Other relevant guidance

- Landscape Character Assessment (2017)
- Landscape Sensitivity Assessment (2017)
- Open Space and Recreation Study (2016)
- Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA)
- Affordable Housing SPD (2011)
- Leicestershire Highways Design Guide

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
- Flooding & Drainage
- Ecology
- Air Quality, Noise & Land Stability
- Archaeology
- Affordable Housing

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 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. Ratby is identified as a Key Rural Centre relating to Leicester. Policy 7 supports proposals within the settlement boundaries of Key Rural Centres that provide a mix of housing types and tenures as set out in Policies 15 and 16. Policy 8 of the Core Strategy provides the policy framework for each Key Rural Centre relating to Leicester. The first of the criteria seeks the provision of a minimum of 75 new homes in Ratby. This housing provision was exceeded when the SADMP was adopted in 2016 with extant planning permissions for 107 dwellings.
- 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, in addition the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by Ministry of Housing Communities and Local Government (MHCLG). Therefore, the application should be determined in accordance with 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. The consideration under Paragraph 11 (d) 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. This site lies outside of the settlement boundary of Ratby. A number of objections received state that the application site lies within land designated as Green Belt or Green Wedge. The application site is not designated as Green Belt land or as land within the Green Wedge. However, the land is identified as countryside on the

Borough Wide Policies Map and therefore Policy DM4 should be applied. Policy DM4 of the adopted SADMP seeks to protect the intrinsic value, beauty and open character and landscape character through safeguarding the countryside from unsustainable development.

8.8. Policy DM4 states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:

- It is for outdoor sport or recreation purposes (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 Policy DM4 as sustainable development and so there is a clear conflict between the proposed development and the policy.

8.10. Therefore, this housing proposal outside the settlement boundary of Ratby and within the countryside is contrary to Policies 7 and 8 of the Core Strategy and Policy DM4 of the SADMP. As such there is a conflict with the spatial policies of the development plan. However, paragraph 11(d) of the NPPF is engaged and therefore a 'tilted balance' assessment must be made. This must take into account all material considerations and any harm which is identified. All material considerations must be assessed to allow this balance to be made.

Design and impact upon the character of the area

8.11. 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.

8.12. 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.

Landscape and visual impact

- 8.13. The Borough's Landscape Character Assessment (2017) identifies the site within Landscape Character Area A - Charnwood Forest (LCA – A). This is characterised by a prominent elevated landform, diverse land uses, woodland cover of varying age including mature ancient woodland, small to medium scale field pattern interspersed with large areas of woodland cover. LCA – A is further characterised by its large clustered villages with strong suburban influences and distinct views to the urban edges of Leicester and its proximity to Leicester City and major transport infrastructure.
- 8.14. The application site is typical of the Landscape Character Area, with its small to medium field pattern which adjoins mature ancient woodland, its strong suburban influences and its proximity to Leicester City and major transport infrastructure. The site is not a 'valued landscape' for the purposes of Paragraph 170 of the NPPF, does not have any national or local designations and is not unique or remarkable for any landscape purposes.
- 8.15. The key sensitivity of LCA - A relevant to the application site is the late to post medieval enclosure, ridge and furrow as well as some assarts in and around Ancient Woodland which contribute to the sense of place and provides continuity to the agricultural past. The landscape strategies for this area are to ensure extensions are well integrated within this wooded landscape, to support the National Forest Strategy and to conserve the distinct and separate identity of Groby and Ratby, including the rural gap that separate the villages.
- 8.16. The application site also lies immediately adjacent to the urban area of Ratby which is identified as Urban Character Area 8 (UCA-8) within the Landscape Character Assessment. The key characteristics of Ratby as relating to the application site are that it is a historic hilltop settlement with open countryside setting to the west and south, its compact streetscene of narrow lands within the historic core which contrast sharply with the expansive design of later roads such as Markfield Road and the M1 as a strong urban influence.
- 8.17. An assessment is made of the landscape value within the submitted LVIA and it is concluded that the site has an overall medium landscape value taking in to account matters such as scenic quality, rarity, conservation interest, recreational value and landscape quality. There is no reason to disagree with this overall judgement. The application site is located immediately adjacent to the existing settlement edge, occupying a narrow strip of pasture on the southern edge of the M1 Motorway corridor. The presence of the existing settlement and those properties adjoining the immediate southern and eastern edges of the Site are a prominent characteristic feature of the Site and its immediate setting. The presence of the M1 corridor along the northern boundary is also a prominent characteristic of the landscape. As such, the application site is influenced by its proximity to both the settlement edge and motorway corridor which detract from the overall quality of the site and its immediate setting
- 8.18. This containment of the application site between the settlement of Ratby, the Motorway corridor and Martinshaw Wood also contributes to the high degree of separation between the site and the wider landscape context. As such the site provides only a limited contribution to the wider landscape with a limited influence upon the character of the LCA. In addition to this, the existing built form on site associated with the Riding Stables comprising low quality structures and containers are at odds with the open pastoral nature of the wider site.
- 8.19. The application proposal would replace open pasture land and an equestrian use with residential built form which would harm the landscape setting of the site. There

would also be a high impact on users of the public right of way and recreational users of Martinshaw Wood to the west. Elements of former ridge and furrow within the westernmost site area are also evident within the views from these receptors. The impact on views from Groby Road above the M1 motorway corridor and views to the south of the site has been assessed as having a medium impact.

- 8.20. Mitigation measures have been incorporated into the proposal which include the retention and enhancement of all existing boundary vegetation, large areas to the east which would remain undeveloped, landscape buffer/advanced native planting along the western/north-western boundary, retention of a veteran ash tree and tree planting within the site. The landscape harm identified to the local landscape area is identified as moderate. The LVIA also argues that the topography of the site is largely unaltered, the existing hedgerows and trees are retained and reinforced and new planting would provide high quality landscaping which would also incorporate increased connectivity through the creation of footpath networks and links through the site to the wider area resulting in negligible effects on the landscape character features of the area and providing a development that has taken in to account the key sensitivities of the LCA.
- 8.21. The LVIA concludes that there will be an adverse effect of moderate significance overall on the landscape given the change from pasture land to housing. With regards to the effect of the proposal upon the wider landscape context, it is considered that the proposal would result in an effect of moderate/minor significance overall. There is no reason to disagree with this assessment.
- 8.22. Therefore, the proposal would extend development beyond the settlement boundary of Ratby and it is considered that the proposal would result in a moderate degree of harm to the character and appearance of the area which would conflict with Policy DM4 and DM10 of the SADMP.

Urban Character

- 8.23. Ratby is a village situated on a hilltop with sloping land towards the floodplain of Rothley Brook. The Urban form is made up of a mixture of cottages, terraces and modern buildings with larger detached properties interspersed ranging from single storey to two storey. The local vernacular is red brick occasionally covered by modern render, pitched slate roofs and red brick chimney stacks are common features in the core of the settlement, with buildings that front onto the street. As the application has been submitted in Outline with matters of scale, layout and appearance reserved no assessment of the proposal in relation to the urban character is made. However, it is not considered that there is any reason that the proposal could not respond well to the features and characteristics of Ratby and there is recognition of this within the submitted Design and Access Statement.

Historic Environment

- 8.24. 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.
- 8.25. Section 16 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (paragraph 193).
- 8.26. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage

assets. All proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.

- 8.27. A landscape and visual impact appraisal, an Archaeological Geophysical Survey Report and a Trial Trenching Report have been completed and submitted as part of the application. In determining applications, paragraph 189 of the National Planning Policy Framework (NPPF) requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Following the submission of these documents Leicestershire County Council Planning Archaeology recommended that further work was required to be undertaken before the planning application was determined following evidence of prehistoric activity within Ratby.
- 8.28. A Trial Trenching Report was subsequently received which detailed further investigations across the site by way of the excavation of 16 trenches. This work was undertaken in accordance with both the NPPF and a Written Scheme of Investigation (WSI) as approved by LCC. LCC's Archaeologist confirms that they visited the site during the excavation of the trenches. They agree with the findings of the surveys in that there are remains of medieval plough furrows on some parts of the site along with the remains of three undated ditches and the potential for further archaeological remains of significance. However, they consider that further archaeological evaluation of the site and any subsequent mitigation arising from this can be secured through a pre-commencement condition. The findings of these further studies would then inform the siting and layout proposals submitted as part of any reserved matters proposal.
- 8.29. The Historic Environment Record (HER) for Leicestershire confirms that there are no designated or non-designated heritage assets located within the application site.
- 8.30. The proposal would therefore have a neutral impact upon the historic environment of Ratby and therefore accords with DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duties of sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and paragraphs 189 and 190 of the NPPF.

Impact upon neighbouring residential amenity

- 8.31. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.32. Objections have been received from local residents with regard to residential amenity by way of additional noise and traffic as well as loss of privacy and loss of a view. The loss of view is not a material planning consideration, unless this amounts to visual harm that is of a magnitude warranting public rather than personal interest. However, in this instance it is not considered that this is likely, subject to appropriate scale and layout, this is also the case with regards to loss of privacy. Harm arising from pollution (including noise, dust and air quality is considered separately further in the report).
- 8.33. Whilst there are existing dwellings adjoining the site boundary and there is a variation in ground levels on parts of the site, by virtue of the size of the site and subject to satisfactory layout, scale, design and landscaping which are matters reserved for future consideration, the indicative only layout submitted demonstrates that the site could be developed for up to 168 dwellings with satisfactory separation distances, buffered landscape areas and without resulting in any significant adverse

impacts on the privacy or amenity of the occupiers of any neighbouring properties. Residential amenity for the future occupiers of the development is a matter that will be established through the submission of detail; however, there is no reason that this can not be achieved. A planning condition can be included to ensure that the finished ground levels on site and the finished floor levels of the dwelling houses are agreed prior to development commencing.

- 8.34. The construction of a development would be temporary and would not result in any long terms impacts on amenity. However, by virtue of the scale of development, the proximity to existing residential properties and potential duration of the construction phase, Environmental Health (Pollution) recommend a condition to secure the submission of a Construction Environmental Management Plan for approval prior to construction by the local planning authority to protect the amenities of neighbouring properties and minimise any adverse impacts.
- 8.35. The proposal is therefore considered to be in accordance with Policy DM10 as the amenity of neighbouring occupiers of the proposed development would not be adversely affected to warrant refusal of the application.

Impact upon highway safety

- 8.36. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. Policy 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.37. Access is a matter for determination by this application and a detailed access plan has been provided. In addition to this, the proposal has been supported by the submission of a Transport Assessment and Travel Plan that conclude the proposal would not have adverse impact upon the safe operation of the local highway network.
- 8.38. The detailed access plan shows a 6.75m carriageway extending into the site from Markfield Road with a 2m wide footway on the western side of the proposed access, which would extend into the site to allow for pedestrian access. At its junction with Markfield Road, an uncontrolled crossing, comprising dropped kerbs would be provided. The access plan illustrates visibility splays of 2.4m x 46 and 2.4m x 56 metres.
- 8.39. The dimensions of the access ensure an allowance is made for the largest vehicles expected to regularly access the site, such as refuse collection vehicles, to do so in a safe manner without disruption to other road users and without over-designing. A swept path analysis has been carried out of the site access and is provided and an appendix to the Transport Assessment.
- 8.40. Reserved Matters applications will specify sufficient parking, both in terms of numbers and dimensions, to comply with the relevant standards at the time of submission, as will the internal road layout.
- 8.41. The existing vehicular access into the site from Groby Road would continue to access the two properties off Groby Road. However, access into the application site would be restricted to emergency access only through the use of bollards. This access would be available for use for pedestrians and cyclists.

- 8.42. LCC as the Local Highway Authority has advised that whilst they are not in a position to issue a formal consultation response at present, in their view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. They suggest that the development proposal is acceptable in highway safety terms subject to the imposition of a number of planning conditions. They indicate that one of these conditions will be for the submission of a scheme of traffic calming for Markfield Road prior to the commencement of development and its implementation would be required before any dwelling was occupied. Such traffic calming measures are necessary to achieve the required visibility splays from the vehicular access.
- 8.43. A further report will be made available for the planning committee's consideration prior to the meeting with regards to the issue of highway safety from this residential proposal.

Flooding and Drainage

- 8.44. Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding. A Flood Risk Assessment (FRA) has been submitted with the application in accordance with paragraph 163 of the NPPF.
- 8.45. The site is located within Flood Zone 1 being at low risk of fluvial flooding and therefore passes the Sequential Test and does not require the Exception Test to be undertaken. There are no recorded flooding incidents on the site. However, some of the objection letters have indicated that the gardens to the south and south west of the site have experienced flooding from water draining off the site. The FRA indicates that as the site is currently not positively drained, the source of this flooding is likely to be surface water or groundwater. The proposal is for surface water from the proposed development to be intercepted by a sustainable drainage scheme. Attenuation storage would be provided by three attenuation basins located across the site. Runoff would be released from the site at greenfield runoff rates to ensure that flood risk downstream is not increased.
- 8.46. The Lead Local Flood Authority raise no objection to the Surface Water Drainage Strategy proposal subject to conditions requiring the submission of a surface water drainage strategy which will require full construction details. It is recommended in the FRA that finished floor levels should be set a minimum of 150mm above the existing ground levels to reduce the risk of flooding to the properties. This can be conditioned.
- 8.47. Severn Trent Water, the Lead Local Flood Authority and HBBC Drainage have no objection to the proposals for handling surface water drainage on site, subject to conditions. Therefore the proposed development is considered to accord with Policy DM7 of the SADMP and would not create or exacerbate flooding and the proposed development is located in a suitable location with regard to flood risk.

Ecology

- 8.48. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.49. Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.50. The presence of protected species is a material consideration in any planning decision, it is essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals is established prior to planning

permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions.

- 8.51. An Ecological Impact Assessment (Brindle & Green, June 2019) has been submitted with the application and was found to be satisfactory by LCC (Ecology). The site has a remarkable population of slow-worms which is classed as being of 'district' level importance. LCC Ecology has visited the site and confirmed that the 6 areas to be retained in the Biodiversity Impact Assessment for ecological enhancement are satisfactory. These areas are also shown on the Parameters Plan. In particular Area 1 would be the proposed grassland restoration area for slow-worms and Area 4 would be species-rich grassland. These areas should be retained and enhanced for their biodiversity value rather than as amenity grassland open spaces. Indeed, the proposal does include areas of opportunity for net gain in biodiversity, of particular note are the undeveloped areas, the SUDs features that should be designed for biodiversity and the species-rich grassland which can be created. It should also be noted that only native species would be used in the landscaping scheme.
- 8.52. LCC Ecology has advised a number of planning conditions should be imposed on any consent granted. One of these planning conditions is the requirement for the provision of an acceptable slow-worm mitigation plan to be agreed and implemented for the provision of the mitigation area and for the translocation of individuals from other parts of the site.
- 8.53. The Woodland Trust has expressed concerns about the proposed residential development in close proximity to a veteran tree on the site. The veteran tree relates to an Ash Tree close to the proposed access and to the rear of the properties on Markfield Road. Although acknowledged that Natural England's Standing Advice does not specifically recommend a 50 metre buffer, the Woodland Trust do recommend that there should be no development within this tree's root protection area as its loss would constitute an irreplaceable habitat. The Council's Arboricultural Officer has inspected the veteran tree. He advises that the tree could be managed with a heavy crown reduction and retained within the proposed development layout with a 21 metre root protection area. He also advises that subject to the submission of an appropriate protection plan, the trees shown to be retained on site can be successfully retained and the loss of those trees to be removed could be adequately mitigated by agreeing a planting scheme.
- 8.54. The proposed development lies some 12 metres from the boundary with Martinshaw Wood which is an ancient woodland. Concerns have been raised by LCC's Ecologist, the Woodland Trust, the National Forest and the Council's Arboriculturalist about the proximity of the proposed residential development to the boundary with Martinshaw Wood. The Council's Arboriculturalist recommends that buffering of the Martinshaw Wood boundary should be sought. The parameters plan submitted does include an acoustic barrier along the majority of the boundary near Martinshaw Wood along with an area of natural green space along this north western boundary to provide this buffer. However, there is a need for a pedestrian link to be provided from the site to public footpath R38/1 which runs alongside Martinshaw Wood in order to increase the permeability of the proposal. This pedestrian link would still be feasible where the acoustic fence as shown on the parameters plan.
- 8.55. LCC Ecologist's recommends that the lighting proposed near to Martinshaw Wood should be minimised to 1 lux or below to prevent any light spillage into this ancient

woodland. This is a reasonable requirement which can form part of an appropriately worded planning condition.

- 8.56. Based on the above, it is considered that the impact of the proposed development on protected species is in accordance with Policy DM6 of the SADMP DPD and the general principles of the NPPF.

Air Quality, Noise and Land Stability

- 8.57. Policy DM7 of the SADMP seeks to ensure that adverse impacts from pollution are prevented, this include impacts from noise, land contamination and light.

Air Quality

- 8.58. An Air Quality Assessment has been provided with the application, this was based on the figures from the Transport Assessment. Road traffic emissions were modelled using the dispersion model ADMS-Roads and concentrations of nitrogen dioxide and particulate matter were predicted at identified sensitive receptor locations. The development was not predicted to result in any new exceedances of the relevant air quality objectives and the impact of the development on local air quality was predicted to be 'negligible' in accordance with the guidance.
- 8.59. In view of the site's location alongside a busy Motorway, the Air Quality Assessment also considered the suitability of the application site for the proposed residential use with regard to air quality. The report concludes that pollutant concentrations were predicted to be below the relevant air quality objectives and so the application was considered to be suitable for residential use. Following the submission of additional information the Council's Environmental Services (Pollution) (EHO) has confirmed that they have no objection to the findings of the Assessment.

Noise

- 8.60. The application is supported by a Noise Impact Assessment Report. The Council's EHO has confirmed that the results of this survey conclude that the internal noise standards can be achieved inside the dwellings proposed with the provision of specific glazing, acoustic trickle ventilation and a mechanical ventilation system. Whilst acoustic fencing along the motorway boundary would reduce the noise levels experienced for users of the private amenity space, the noise levels across some areas of the site would slightly exceed the desirable noise standard of 50dB.
- 8.61. The Council's EHO has stated that additional noise mitigation measures are possible including increasing the height and design of the acoustic fence along with maximising protection through the design of the housing layout at the reserved matters stage. Planning conditions are suggested that require further noise surveys to be submitted with the layout which accompanies a reserved matters application along with appropriate mitigation. The Council's EHO does not object to this approach and the relevant conditions are considered to meet the tests as set out in the NPPF.
- 8.62. Therefore, with regard to the noise comments made by the Council's EHO, the relaxation of external noise standards in the region of no more than 5dB would be appropriate in this instance given the Council's current housing shortfall, the similarities of this proposal with a recent residential development in Ratby (Bancroft Way, Buttercup Grove, and Wagtail Close) which is also adjacent to the M1 motorway and further noise mitigation and protection measures provided at the reserved matters stage, Compliance with the planning conditions would ensure a robust package of mitigation measures is delivered as part of the development of the site and that sufficient space is available (as shown on the parameters plan) to accommodate such measures. Therefore, the proposal would comply with Policy DM7 of the SADMP (2016).

Land Contamination/Stability

- 8.63. The proposal relates to ground works close to the motorway embankment. Concerns have been raised by Highways England regarding the geotechnical aspects of the scheme and the proposed site boundary treatment. A Geotechnical Options Report containing a Risk Register has been produced by BWB to address these concerns. Highways England has assessed this report and confirmed that they have no objections to the proposal subject to the imposition of pre-commencement conditions which require the agreement of the actual bund size and geometry (plus effects of acoustic fence/barrier) prior to the submission of any reserved matters application. Further details of the management and maintenance of the noise bund and its vegetation are also requested along with surface water run off drainage of the bund slopes. It is considered that the conditions requested by Highways England are reasonable and necessary to ensure that the proposal does not impact on the motorway carriageway.
- 8.64. The application is accompanied by a land contamination report. This report has found areas of made ground. As such, the Council's EHO, has recommended that planning conditions are imposed on any consent granted to ensure that any contamination found on site is remediated.
- 8.65. A number of objections have been received raising concerns about noise, dust and vibration during the construction phase. The Council's EHO has requested a condition to control the hours of construction to hours that are considered acceptable. A construction environmental plan is also requested to detail how the impact from dust, odour, noise, smoke, light and land contamination will be managed during the construction phase.
- 8.66. Based on the above assessments the proposal would comply with the requirements of Policy DM7 of the SADMP which seeks to ensure that adverse impacts from pollution are prevented which include impacts from noise, land contamination and light.

Archaeology

- 8.67. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 8.68. LCC (Archaeology) state that the Leicestershire and Rutland Historic Environment Record indicate that the proposed developed site has a potential for the presence of archaeological remains. As discussed in the character and appearance section above, following the submission of these documents Leicestershire County Council Planning Archaeology recommended that further work was required following evidence of prehistoric activity within Ratby.
- 8.69. A Trial Trenching Report was subsequently received which detailed further investigations across the site by way of the excavation of 16 trenches. This work was undertaken in accordance with both the NPPF and a Written Scheme of Investigation (WSI) as approved by LCC. LCC's Archaeologist confirms that they visited the site during the excavation of the trenches. They agree with the findings of the surveys in that there are remains of medieval plough furrows on some parts of the site along with the remains of three undated ditches and the potential for further archaeological remains of significance. However, they consider that further archaeological evaluation of the site and any subsequent mitigation arising from this can be secured through a pre-commencement condition. The findings of these

further studies would then inform the siting and layout proposals submitted as part of any reserved matters proposal.

- 8.70. The pre-commencement condition is considered to meet the tests as laid out in the NPPF and should be applied as requested to ensure that the proposal complies with the requirements of Policy DM13 of the SADMP.

Affordable Housing, Housing Mix and Density

- 8.71. Policy 15 of the Core Strategy requires residential development in rural areas to provide 40% Affordable Housing with a tenure split of 75% social or affordable rented and 25% intermediate housing. The details submitted with this application would suggest that based upon the delivery of 168 dwellings were to be provided this would result in 101 market dwellings and 67 dwellings would be affordable, with a mix of 50 dwellings for social rent and 17 intermediate dwellings for shared ownership.
- 8.72. Policy 16 of the Core Strategy states that proposals for new residential development will be required to meet a minimum net density of a least 30 dwellings per hectare within key rural centres such as Ratby. The density of the housing contained within the development framework parameters is on average 34 dwellings per hectare. However, lower densities will occur on the edges of the site, whilst higher densities will be located along the primary vehicular route and towards the existing settlement edge. This is considered an acceptable design approach to achieve a balance between efficient use of land, whilst assimilating with the character of the area.
- 8.73. The density of the site area overall would see a net density much lower than the anticipated 34dpa. However, this is considered acceptable, when the site provides for an extensive amount of accessible informal open space within and around the edges of the site, and also offsets the boundaries of the development from the surrounding hedgerows, hedgerow trees and motorway. The density of the area identified for built development is policy compliant.
- 8.74. On 3.7.19 the Council's Housing Register had 1111 applicants for the Borough for the following property sizes:
- For 1 bedroomed properties 493 applicants
 - For 2 bedroomed properties 405 applicants
 - For 3 bedroomed properties 166 applicants
 - For 4 or more bedroomed properties 47 applicants.
- 8.75. There are 54 applicants on the housing register who indicate they have a connection to the parish of Ratby. Of this number, 22 are waiting for 1 bed properties, 25 for 2 beds, 6 for 3 beds and 1 for a 4 bed. A housing mix condition can be applied to the proposal so that the mix proposed at Reserved Matters is in accordance with the most up to date housing need assessment. This mix should include a small number of 2 bedroomed bungalows. The affordable housing should be spread evenly throughout the site in small clusters as set out in Key Policy Principle AH 3: Design and Layout in the Affordable Housing Supplementary Planning Document.
- 8.76. The Section 106 agreement should contain a requirement for applicants in the first instance to have a local connection to Ratby, with a cascade in the second instance for a connection to the Borough of Hinckley and Bosworth. Overall it is considered that the proposal is compliant with the provisions of Policies 15 and 16 of the Core Strategy.

Infrastructure Contributions

- 8.77. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities.
- 8.78. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (As Amended) (CIL) and paragraph 56 of the Framework. The CIL Regulations and NPPF 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.

Affordable Housing

- 8.79. The developer will be obligated to provide 40% affordable housing, with a tenure split of 75% affordable rented and 25% intermediate (shared ownership).
- 8.80. This obligation is considered necessary as the provision of affordable housing is required for compliance with Policy 15 of the Core Strategy. This policy is consistent with Section 5 of the NPPF which seeks to deliver a sufficient supply of homes, to meet the needs of different groups within the community including those requiring affordable housing. Policy 15 seeks to provide affordable housing as a percentage of dwellings provided on site, therefore the obligation directly relates to the proposed development. The level of affordable housing represents the policy compliant position. The required (by condition) affordable housing mix is based on the housing waiting list for Ratby, and will be required to be delivered on a cascade approach with residents with a connection to Ratby. Therefore the obligation is directly related to the proposed development. The extent of the affordable housing obligation is directly related in scale and kind to the development as it represents a policy compliant position, expected by all development of this typology. No issues of viability have been raised with this scheme.

Play and Open Space

- 8.81. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016, updates these standards and also identifies the costs for off-site and on-site contributions. In line with the up to date standards identified in the 2016 study the table below identified the requirements for open space. There would also be a requirement for the maintenance of on-site open space provision for a 20 year period and for the maintenance of off-site open space provision for a 10 year period.

	Policy Requirement per dwelling based on 2.4 people per dwelling using CENSUS average	Requirement of open space for the proposed development of 168 dwellings (square metres)	Provided on site (square Meters)	Remaining requirement to be provided off site
Equipped Children's Play Space	3.6	604.8	All to be provided on site	N/A
Casual/Informal Play Spaces	16.8	2822.4	All to be provided on site	N/A
Outdoor Sports Provision	38.4	6451.2	None	£9.05 per m ² per dwelling
Accessibility Natural Green Space	40	6720	Unknown	£4.09 per m ² of shortfall per dwelling

- 8.82. In accordance with the Open Space and Recreation Study (2016) the number of dwellings proposed requires a Local Area of Play (LAP) and a Locally Equipped Area for Play (LEAP) to be provided on site. The submitted Development Framework indicates the provision of an equipped area for play centrally located within the site.
- 8.83. The developer would be obligated to provide and then transfer the on-site open space area to a management company, together with a maintenance contribution or, request that either the Borough Council or the Parish Council maintain the land. If the land is to be transferred to an authority then the area of open space would include a maintenance contribution.
- 8.84. The provision of Play and Open Space is required for compliance with Policies 8 and 19 of the Core Strategy and Policy DM3 of the adopted SADMP. These Policies are consistent with the NPPF in helping to achieve the social objective of sustainable development through promoting healthy and safe communities as addressed in section 8 of the NPPF. The provision of play and open space helps support communities health, social and cultural well-being and is therefore necessary. Core Strategy Policy 8 requires development in Ratby to address existing deficiencies in the quality, quantity and accessibility of green space and play provision. Policy 19 sets out the standards to ensure all residents within the borough, including those in new development have access to sufficient high quality accessible green spaces. The indicative only layout of the proposed development suggests the provision of open space around the site to include a LAP and informal space. Using the adopted Open Space and Recreation Study (2016) the closest public open spaces to the proposed site fall below the quality scores set by the Open Space and Recreation Study and therefore the obligations and contributions directly relate to the proposed development. The extent of the Open Space and Recreation contribution and provision is directly related in scale and kind to the development and its impacts upon surrounding publicly accessible open spaces. The delivery of these obligations is policy compliant and has been applied fairly as with all development of this typology, the developer is not obligated to provide anything above policy compliant position and therefore the contribution relates in scale and kind.

Highways

- 8.85. To be updated once the formal consultation response has been received from the Highway Authority.

NHS West Leicestershire CCG - Health Care

- 8.86. The West Leicestershire CCG has requested a contribution of £109,890.00 towards addressing the deficiencies in services at Ratby Surgery, which is the closest available GP practice to the development. An independent premises feasibility study has identified that this surgery is poorly laid out due to successive small extensions and so has no further room to expand. The recommendation on the final report was that the practice would need to relocate to new build premises to meet future demand. The practice partnership has invested in land within the village and is currently preparing their final business case and plans for a new surgery. An increase of 407 patients from the proposal would significantly impact on patient demand in the area.
- 8.87. The provision of a Health Care contribution is required for compliance with Policy DM3 of the adopted SADMP. The requirement of funding for Health Care Provision at identified local GP Surgeries, addresses the impacts of the development on existing and future need of this vital infrastructure provision, helping to meet the overarching social objectives contained within the NPPF in achieving sustainable development, thus making the obligation necessary. The identified increase in patients would have a direct impact on the local surgery at Ratby, as set out in the request, arising from the additional demand on services directly related to the population generated from the development. The extent of the Health Care contribution is directly related in scale and kind to the development, the obligation is calculated using population projections applied to all developments of this typology. The obligation sets out current capacity or otherwise of local services and how this proposal leads to direct impact, the developer is not obligated to provide contributions to address need in excess of that generated directly from the development, therefore the contribution fairly relates in scale and kinds to the development proposed.

Education

- 8.88. LCC Children and Family Services has requested a contribution towards education, based on a formula using the average cost per pupil place, against the anticipated likely generation of additional school places from the proposed development. Capacity at the nearest schools to the proposal for each sector of education (early years, primary, secondary and SEN) is then considered and it is determined whether the proposal would create demands upon these services. The total contribution is £94,833.37.
- 8.89. The contribution towards addressing the impact of the development upon education is required for compliance with Policy DM3 of the adopted SADMP and would address the impacts of the development on essential infrastructure within the local area. This helps to meet the overarching social objectives within the NPPF helping to contribute to sustainable development, thus is necessary. The contribution is calculated by attributing a monetary value to the number of additional pupil places generated directly from the development and then requesting the money towards each sector of the education sector where there is an identified deficit of places, therefore the contribution directly relates to the proposal. The contribution is calculated using a methodology that is attributed to all developments of this typology across the county and has only been requested where there is an identified deficit of places. Therefore the contribution relates fairly and reasonably in scale and kind.

Libraries

- 8.90. LCC Library services have requested a sum of £5,070 towards provision of additional resources at Ratby Library, which is the nearest library to the development. The development would be within 0.53km of Ratby Library. The contribution is calculated using a methodology that is attributed to all developments of this typology and has only been requested where there is a deficiency in stock level. Therefore the contribution relates fairly and reasonably in scale and kind.

University Hospital Leicester (UHL)

- 8.91. UHL has requested a contribution to address NHS revenue shortfalls for acute and planned treatment. This is by way of a monetary contribution of £62,128.00 towards the 12 month gap in the funding in respect of A &E and planned care at the University Hospital, Leicester.
- 8.92. It is not considered that the payments to make up funding which is intended to be provided through national taxation can lawfully be made subject to a valid S106 obligation, and such payments must serve a planning purpose and have a substantial connection to the development and not be merely marginal or trivial. Notwithstanding the above, the legal requirements of reg. 122(2) of the CIL Regulations 2010 (as amended) are also not satisfied due to the quality of information submitted by UHL to date. The contribution is not necessary, when funding for this type of NHS care is intended to be provided through national taxation. UHL is unable to demonstrate that the burden on services arises directly from the development proposed, opposed to a failure in the funding mechanisms for care and treatment. The request made is to meet a funding gap over the forthcoming 12 month period and is requested on commencement of development, consideration should be given as to whether it is likely that this development is likely to be built out and occupied by residents from outside of the existing trust area within 12 months, and therefore be the source of burden on services as calculated. UHL has not demonstrated through evidence that the burden on services arises fairly from the assessment of genuine new residents likely to occupy the dwellings. Further to this there are issues with the data and methodology used by UHL for example the inflated population projections compared to those used by Leicestershire Authorities when calculating housing need, or the failure to address funding needs from housing projections set out in the Joint Strategic Needs Assessment and Joint Health Wellbeing Strategy referred to in their request, therefore it has not been demonstrated that the request fairly and reasonably relates in scale and kind to the development proposed.
- 8.93. A similar request was considered by a Planning Inspector during the determination of appeal ref: APP/K2420/W/19/3235401, where it was found that there was insufficient evidence to support the contributions being sought. This request is therefore not considered to meet the test of the CIL Regulations.

Other Matters

- 8.94. HBBC (Street Scene Services) has requested a condition to detail the waste collection and recycling strategy of the site, it is considered that this is an appropriate condition that meets the tests.
- 8.95. As a result of public consultation, objections have been received on the grounds of loss of property value; however, this is not a material planning consideration.

9. Planning Balance

- 9.1 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.

- 9.2. 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 now required. The Council also cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 9.3. The proposal would be in conflict with Core Strategy Policies 7 and 8 and Policies DM4 of the SADMP. These policies are consistent with the Framework and are afforded significant weight. The proposal, whilst involving development on open land, has been found to have a moderate impact on the landscape character of the area and a moderate to minor impact on the wider landscape character. There are also some minor adverse visual impacts identified, so there is some conflict with Policy DM4 of the SADMP.
- 9.4. Weighed against this conflict with the Development Plan is the Government's commitment to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of up to 168 houses (including up to 67 affordable homes). These additional houses and affordable houses have significant weight in the planning balance as they would assist in addressing the current shortfall of housing and affordable housing in the area.
- 9.5. Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably outweigh the benefits of the scheme. It is therefore important to identify any further benefits. Following the three strands of sustainability the benefits are broken down into economic, social and environmental.
- 9.6. The proposal would result in economic benefits through the construction of the scheme albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services.
- 9.7. As discussed the proposal could deliver up to 168 dwellings, of which 40% would be affordable. This would result in a significant social benefit to the area and also to the borough. The proposal would also involve the provision of areas of public open space (POS). The POS would be connected to existing pedestrian footpaths providing a benefit to the wider area.
- 9.8. Some environmental benefits would be provided such as additional planting through landscaping in the provision of open space. Additionally there would be some benefit for biodiversity associated with the reinforcement and new planting of hedgerow and trees around the site and the provision of SUDS which can be designed to include benefits to biodiversity, secured via condition.
- 9.9. It has been concluded that there would moderate harm to the character of the area caused by the landscape and the visual impact of built development in this location would harm the open character of this area between the motorway and existing residential development. The proposal would extend development beyond the settlement boundary of Ratby and it is considered that the proposal would result in harm to the character and appearance of the area in conflict with Policy DM4 of the SADMP DPD.
- 9.10. Whilst there is conflict with the strategic policies of the Development Plan only moderate localised landscape harm has been identified. It is considered on balance that this level of harm does not significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a

whole. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations outweigh the conflict with some elements of the development plan.

10. Equality Implications

- 10.1. 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.
- 10.2. 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.
- 10.3. There are no known equality implications arising directly from this development.
- 10.4. 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).

11. Conclusion

- 11.1. The housing policies in the adopted Core Strategy and the adopted SADMP are considered to be out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 11.2. Subject to conditions the proposal would not have any significant adverse impacts on residential amenity, vehicular or pedestrian safety, Ecology, Archaeology, Drainage and Air Quality, Noise and Land Stability. It is considered that the proposed development is in accordance with Policies DM6, DM7, DM10, DM11, DM17 and DM18 of the SADMP (2016).
- 11.3. However, the proposal would be in conflict with Policies 7 and 8 of the Core Strategy and Policy DM4 of the SADMP. These policies are in accordance with the Framework and have significant weight. The proposal, whilst involving development on open land, has been found to have a moderate adverse localised impact on the character of the area and so there is some conflict with Policy DM4 and DM10 of the SADMP.
- 11.4. Weighed against the conflict with the Development Plan is the Government's commitment to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of up to 168 houses (including up to 67 affordable homes). These additional houses and affordable housing have significant weight in the planning balance as they would assist in addressing the current

shortfall of housing and affordable housing in the area. As such, although there is clear conflict with strategic Policies 7 and 8 of the Core Strategy and Policy DM4 of the adopted SADMP, there has only been moderate harm found.

- 11.5. On balance it is considered that the harm identified to the character and appearance of the countryside from new residential development would not significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a whole. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations do justify making a decision other than in accordance with the development plan. Subject to consideration of the statutory consultation response of LCC as Highway Authority it is therefore recommended that the application is approved subject to the conditions and planning obligations listed below.

12. Recommendation

12.1. Grant planning permission subject to:

- The completion within 3 months of this resolution a S106 agreement to secure the following obligations:
 - 40% Affordable Housing, 75% affordable rented and 25% shared ownership
 - £5,070.00 for library facilities at Ratby Library
 - £94,833.37 for education
 - £109,890.00 Health Care Provision (GP Practices)
 - On-site Open Space requirement of at least 605m² of equipped play area; 2822m² of Casual/Informal Play Space and 6720m² of natural green space along with maintenance costs.
 - Off-site Open Space contribution along with maintenance costs for 6451m² of outdoor sports provision and any of the above natural green space required which cannot be accommodated on-site and maintenance.
 - Any Highway Contributions that may be requested and which are deemed to be CIL compliant
- Planning conditions outlined at the end of this report.

12.2. Conditions and Reasons

1. Application for the approval of reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

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

2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
 - a) appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes
 - b) landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges

- c) layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes.
- d) scale of each building proposed in relation to its surroundings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

3. Prior to the commencement of development a scheme which details the proposed market housing mix for the development that is in accordance with the Council's adopted Development Plan. The development shall then be completed in accordance with the approved details.

Reason: To ensure an appropriate housing mix to meet the housing needs of the locality is provided in accordance with Policy 16 of the Core Strategy 2009.

4. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - a) Site Location Plan Drw No: 30893 SK01 Rev A received on 21 September 2019
 - b) Proposed Site Access Strategy Drw No: BR-514-0009 SK01 Rev D received on 9 December 2019
 - c) Pedestrian, Cycle and Emergency Access Drw No: 514-0009 TP SP04 received on 9 December 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).

5. No more than 168 dwellings shall be constructed on the site.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the SADMP (2016).

6. All reserved matters applications shall be in general accordance with the Parameter Plan (Drw No: SK-13) received by the local planning authority on 27 September 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).

7. Prior to the approval of any Reserved Matters under this permission, full details of the noise boundary treatment adjacent to the M1 motorway boundary shall be submitted to and approved in writing by the local planning authority. This shall include (but not be limited to):
 - a) A full stability analysis and a Geotechnical Report in accordance with DMRB CD 622 to demonstrate that the proposed noise bund does not cause any change in condition of the SRN earthworks and lead to unacceptable factors of safety on the Motorway cutting.

- b) Management and maintenance details of the noise bund and its vegetation.
- c) Details of the surface water run off drainage of the bund slopes, in line with the Department for Transport Circular 02/2013 'The strategic Road Network and the Delivery of Sustainable Development,' paragraph 50, stating that "no water run off that may arise due to any change of use will be accepted into the Highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems.'
- d) The approved noise bund shall be implemented in accordance with the approved details prior to the first occupation of the development.

Reason: To maintain the integrity of the M1 Motorway and to ensure that it continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act and in accordance with Policy DM17 of the SADMP (2016).

- 8. Prior to the commencement of development, details of the site's boundary fencing, ensuring there is no access to highway land, have been submitted to and approved in writing by the local planning authority. The approved fencing shall thereafter be constructed in accordance with the approved plans and maintained in perpetuity by the applicant.

Reason: To maintain the integrity of the M1 Motorway and to ensure that it continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act and in accordance with Policy DM17 of the SADMP (2016).

- 9. Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area in accordance with British Standard 5837:2012 Trees in relation to design, any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

- 10. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the Site Allocations and

Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

11. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units will conform to the guideline values for indoor ambient noise levels identified by BS 8233 2014 – Guidance on Sound insulation and Noise Reduction for Buildings, shall be submitted to and approved in writing by the Local Planning Authority.

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

12. Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

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

13. Works of site preparation and/or construction shall not take place in any phase other than between the hours of 07:30 hrs to 18:00 hrs Monday to Friday and 08:00 hrs to 13:00 hrs on Saturdays. There shall be no working on Sundays or on Bank or Public Holidays.

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).

14. No development shall take place until details on an acoustic fence to the boundary with the public footpath to the north west of the site, on land within the application boundary, have been submitted to and approved in writing by the local planning authority. None of the dwellings hereby approved shall be occupied until the acoustic fence has been erected in accordance with the approved details.

Reason: To reduce noise levels to the future residents and to mitigate against any impact on Martinshaw Woods in accordance with Policies DM6, DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

15. No development shall take place until details of the pedestrian links to be provided from the application site to public footpath R38/1 to the North West and to Groby Road to the south shall be submitted to and approved in writing by the local planning authority. None of the dwellings hereby approved shall be occupied until the footpath links have been implemented and made available for use in accordance with the approved details.

Reason: To improve connectivity of the site to the surrounding area in accordance with Policy DM1 of the SADMP (2016).

16. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

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

17. 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).

18. No development shall commence until drainage details for the disposal of surface water have been submitted in writing to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.

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

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

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

20. Prior to the commencement of development details in relation to the long term maintenance of the sustainable surface water drainage system on the development shall be submitted to and approved in writing by the Local Planning Authority. Details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate

elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the development site.

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

21. No demolition/development shall take place/commence until a staged programme of archaeological work, commencing with an initial phase of trial trenching has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed 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 and 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.

No development shall then take place other than in accordance with the approved Written Scheme of Investigation.

Reason: To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

22. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.

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

23. 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. 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 SADMP (2016).

24. Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.

Reason: To ensure that a satisfactory relationship is achieved between buildings in particular those along Markfield Road in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

Reason: To ensure that the development has a satisfactory landscaping scheme in the interests of Ecology in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

26. The layout submitted at Reserved Matters shall provide a natural vegetation buffer zone of at least 5m alongside the northern, eastern and north-western boundaries of the application site and a buffer zone of at least 21m around the veteran Ash tree.

Reason: To ensure that the development has a satisfactory landscaping scheme in the interests of Ecology in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

27. All ecological enhancements on the site shall be completed in complete accordance with Section 6 of the Biodiversity Impact Assessment (Brindle & Green, September 2019) before occupation of any of the dwelling houses hereby approved.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

28. No development shall commence on site until a Slow-worm mitigation strategy has been submitted to the local planning authority for their approval in writing. The strategy shall be based on the enhancements detailed in section 6 of the Biodiversity Impact Assessment. Only the approved strategy shall then be implemented on site.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

29. No development shall commence on site until a Biodiversity Management Plan for the site which shall set out the site-wide strategy for protecting and enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the development is completed, has been submitted to the local planning authority for their approval in writing. The submitted plan shall include all retained and created habitats including SUDs and all landscaping to informal play space and natural open space should be comprised of native species wildflower grassland. Development shall be implemented and thereafter maintained in accordance with the approved Management Plan.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

30. Prior to the commencement of development details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). Light spill onto retained hedgerows and onto Martinshaw Wood shall be minimised to a value of 1lux or lower at the edge of habitats. The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

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

31. The development shall be carried out in full accordance with the working methodology, specified in Section 6 of the Biodiversity Impact Assessment (Brindle & Green) dated September 2019.

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

32. Prior to the commencement of development on site a badger survey shall be submitted to the local planning authority for approval in writing. Should evidence of badgers be found on site then the survey shall include a mitigation plan.

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

33. Prior to the occupation of any of the dwellings on site, full fibre broadband connection shall be made available and ready for use.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the NPPF (2019).

34. Upon occupation of each individual residential property on the development, residents shall be provided with a 'Waste Minimisation and Recycling Pack'. The details of this Pack shall be first agreed in writing by the Local Planning Authority (in consultation with Leicestershire County Council) and shall provide information to residents about sustainable waste management behaviours. As a minimum, the Pack shall contain the following:

- Measures to prevent waste generation
- Information on local services in relation to the reuse of domestic items
- Information on home composting, incentivising the use of a compost bin and/or food waste digester
- Household Waste Recycling Centre location, opening hours and facilities available
- Collection days for recycling services
- Information on items that can be recycled

Reason: In accordance with the National Planning Policy for Waste (2014).

35. Highway conditions that may be required following consideration of the consultation response from the Highway Authority.

12.3. Notes to Applicant

1. In relation to condition 16 and 17; advice from Health and Environment Services can be viewed via the following web address:- https://www.hinckley-bosworth.gov.uk/info/200075/pollution/177/contaminated_land site which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
2. With reference to condition 19 the scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations. Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pervious paving details, pipe protection details (e.g. trash screens), and full modelled scenarios for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change storm events.
3. With reference to condition 19 details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
4. With reference to condition 20 details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual householder ownership.
5. With reference to condition 21 the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, with this Department's "Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland" and with relevant Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

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.

6. It is necessary, when carrying out works to tree(s) to be aware of the Wildlife and Countryside Act, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such wild bird.

The times when birds are nesting is generally between the months of March to September inclusive.

7. It is noted that the boundary treatments associated with this consent may involve works within the public highway and affect land over which you have no control. Highways England therefore would require you to enter into a suitable legal Section 278 agreement to cover the design check, construction and supervision of the works. Contact should be made with the Highways England Section 278 Business Manager David Steventon to discuss these matters on david.steventon@highwaysengland.co.uk.
8. Any highway notes that may be required following consideration of the consultation response from the Highway Authority.